federal register

FRIDAY, APRIL 20, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 76

Pages 9787–9956

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Rules Going Into Effect Today

federal register

Area Code 202 Phone 962-8626

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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Treasury

Section 213.3305 is amended to show that one position of Special Assistant to the Secretary is excepted under schedule C.

Effective on April 20, 1973, § 213.3305 (a) (44) is added as set out below.

§ 213.3305 **Treasury Department.**

(a) *Office of the Secretary.* * * *

(44) Special Assistant to the Secretary.

* * * * *

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

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

[FR Doc.73-7699 Filed 4-19-73;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 582]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period April 22–28, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.882 **Lemon Regulation 582.**

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

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

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues to weaken, with volume of sales projected as 10 percent below last week, and price is off 29 cents. The industry will lose nearly 2 full day's sales this week due to the Passover Observance and Good Friday. Average f.o.b. price was $4.92 per carton the week ended April 14, 1973, compared to $5.12 per carton the previous week. Track and rolling supplies at 158 cars were up 5 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons 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 rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 17, 1973.

(b) *Order.*—(1) The quantity of lemons grown in California and Arizona which may be handled during the period April 22, 1973, through April 28, 1973, is hereby fixed at 200,000 cartons.

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

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

Dated April 19, 1973.

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

[FR Doc.73-7865 Filed 4-19-73;1:59 pm]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 305—OFFICIAL NUMBERS; INAUGURATION OF INSPECTION WITHDRAWAL OF INSPECTION; REPORTS OF VIOLATIONS

Suspension of Assignment of Inspectors for Threats of Forcible Assault, or Forcible Assault, Intimidation, or Interference

On August 11, 1972, the Department published a notice in the FEDERAL REGISTER (37 FR 16199) of a proposal to amend part 305 of the Federal meat inspection regulations (9 CFR part 305) to provide for the suspension of assignment of inspectors for threats of forcible assault, or forcible assault, intimidation, or interference with any program inspector.

Statement of considerations.—There were 14 comments received and of those commenting, 6 opposed the amendment. Five of those opposing the amendment were persons representing official

establishments, and one represented a trade organization.

Those opposing the amendment felt that program employees would abuse their authority by withholding inspection without justification. Some questioned a need for such a regulation on the grounds that such assaults or threats of assault are not sufficiently numerous to warrant such action. Three individuals requested clarification of the proposal. One desired to have the suspension provisions removed; one desired to require the suspension of program officials when it was determined that they willfully contributed to causing the suspension; and one wanted to clarify what constituted intimidation or harassment. One individual requested that all regulations be clarified. Four comments received favored the amendment. Two of those were from individuals, one was from an inspectors' employee organization, and one represented a State inspection program. All of these were in favor since they felt that in many cases the need for such an amendment existed.

The Secretary of Agriculture has the responsibility under the act to provide inspection for cattle, sheep, swine, goats, and equines and carcasses, parts of carcasses, and meat food products thereof intended for human food and prepared for distribution interstate or otherwise in "commerce" as defined in the act. This vital function can only be carried out when inspection personnel work under circumstances where they can concentrate fully on their inspection duties without having their attention diverted. This situation cannot exist where tension and other mental distractions occur. There is no intent on the part of the Department to deny inspection service to any official establishment without reasonable cause.

The Department carefully considered the comments, as previous careful study and consideration had been given to a like amendment in the poultry products inspection regulations. The Department follows a general practice of recognizing the right of the management of an official establishment to appeal any decision of a program employee to that employee's superior. If abuse or misuse of authority on the part of a program employee has occurred, appropriate steps are taken to rectify such a situation and to insure against recurrences. Although assaults on program employees are not numerous, there are many threats, instances of intimidation or interference with inspection. There is a need for a rule governing the action to be taken when such problems arise. The temporary suspension of assignment provision must necessarily be an option as a part of the possible action. It would be impracticable, if not impossible, for the Department to identify every possible action which could constitute a threat of forcible assault, forcible assault, or intimidation of, or interference with, program employees. The Department believes the regulations are sufficiently clear to fairly inform the affected persons of the possible consequences of actions within the terminology used. Further the regulation provides a means by which the affected persons may challenge the application of a suspension in any specific factual circumstances.

Accordingly, the Department has determined to adopt the amendment as proposed, except to delete the words "inspection service" and insert the word "program" in three places to conform the language with the terminology used elsewhere in the meat inspection regulations.

Therefore § 305.5(b) of the regulations is amended to read as follows:

§ 305.5 Withdrawal of inspection; statement of policy.

* * * * * *

(b) The assignment of inspectors may be temporarily suspended, in whole or in part, by the Administrator to the extent it is determined necessary to avoid impairment of the effective conduct of the program when the operator of any official establishment or any subsidiary therein, or any officer, employee, or agent of any such operator or any subsidiary therein, acting within the scope of his office, employment, or agency, threatens to forcibly assault or forcibly assaults, intimidates, or interferes with any program employee in or on account of the performance of his official duties under the act, unless promptly upon the incident being brought by an authorized supervisor of the program employee to the attention of the operator of the establishment the operator (1) satisfactorily justifies the incident, (2) takes effective steps to prevent a recurrence, or (3) provides acceptable assurance that there will not be any recurrences. Such suspension shall remain in effect until one of such actions is taken by the operator: *Provided*, That upon request of the operator he shall be afforded an opportunity for an expedited hearing to show cause why the suspension should be terminated.

* * * * * *

(Sec. 21, 34 Stat. 1264, as amended, 21 U.S.C. 621; 37 FR 28464, 28477.)

It does not appear that further public participation in rulemaking proceedings on the amendment would make additional information available to the Department. This amendment must be made effective as soon as possible in order to accomplish its objectives in the public interest.

Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public rulemaking procedure on the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

The amendment shall become effective April 20, 1973.

Done at Washington, D.C., on April 16, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-7605 Filed 4-19-73;8:45 am]

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Facilities for Inspection

On February 5, 1972, there was published for comment in the FEDERAL REGISTER (37 FR 2778), a proposal to amend the poultry inspection regulations under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) by adding the requirement that operators of official establishments provide laundry service for inspectors' outer work garments. The comment period ended March 6, 1972.

After due consideration of the comments received and all other relevant matters, and under the authority of the Poultry Products Inspection Act, § 381.36(a) of the regulations is amended as set forth below.

Statement of considerations.—To insure as sanitary a processing environment as possible, the outer work garments of inspectors must be kept clean. Such garments are cleaned better in commercial laundries than in most home laundries.

During the comment period, several questions were raised as to the utilization of uniform rental service garments in lieu of laundry service. Since this type of service provides adequate commercially laundered work garments, it is a reasonable and acceptable alternative, which is adopted.

One comment questioned whether disposable, one-time use only garments, would be acceptable. Since these types of garments are not reused, they also are allowed. Accordingly, § 381.36 is amended by adding a sentence at the end of paragraph (a) as follows:

§ 381.36 Facilities required.

(a) * * *. Each official establishment shall provide commercial laundry service for inspectors' outer work clothing, or disposable outer work garments designed for one-time use, or uniform rental service garments which are laundered by the rental service.

* * * * * *

(Sec. 14, 71 Stat. 447, as amended, 21 U.S.C. 463; 37 FR 28464, 28477.)

The amendment differs in certain respects from the proposed amendment in the notice of rulemaking. The difference is due primarily to the consideration given to comments received from interested parties. It does not appear that further public rulemaking proceedings concerning the amendment would make additional information available to this Department. Therefore, in accordance with administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further public participation in rulemaking proceedings on the amendment is impracticable and unnecessary.

This amendment shall become effective June 18, 1973.

Done at Washington, D.C., on April 16, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-7604 Filed 4-19-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 12631; Amdt. No. 139-1]

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CAB-CERTIFICATED AIR CARRIERS

Broadened Applicability

The purpose of this amendment to part 139 of the Federal Aviation regulation is to: (1) Broaden the applicability of part 139 to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board; (2) provide for the issuance of airport operating certificates to airport operators that would be required by this amendment to comply with part 139; and (3) provide certain certification and operations rules for heliports that are required by the nature of those airports.

This amendment is based on a "Notice of Proposed Rule Making" (notice No. 73-8) issued March 7, 1973, and published in the FEDERAL REGISTER on March 12, 1973 (38 FR 6692). Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all comments received in response to that notice.

As originally promulgated, part 139 was applicable to land airports regularly serving scheduled air carriers that hold certificates of public convenience and necessity issued by the Civil Aeronautics Board (CAB) and operate large aircraft (other than helicopters) into those airports. In order to serve air carriers after May 20, 1973, airports to which part 139 is applicable must comply with part 139 and be issued an FAA airport operating certificate. The preamble to part 139, issued June 12, 1972 (37 FR 12278; June 21, 1972), stated that further rules would be developed to comply with the legislative mandate of section 612 of the Federal Aviation Act of 1958, as amended, as to all other airports serving air carriers certificated by the CAB. This amendment is issued to accomplish that purpose.

Airports that do not regularly serve CAB-certificated scheduled air carriers operating large aircraft, but do provide service to CAB-certificated air carriers, include airports that serve: (1) Certificated supplemental air carriers; (2) certificated air carriers operating small aircraft (12,500 lb. or less maximum certificated takeoff weight); (3) certificated certificated air carriers operating helicopters. This amendment enlarges the applicability of part 139 to include these airports, in addition to those airports regularly serving scheduled air carriers operating large aircraft. Thus, all airports serving certificated air carriers will be required to comply with part 139 and to have an airport operating certificate in order to serve these air carriers after May 20, 1973. This includes provisional and refueling airports serving certificated air carriers as provided for in parts 121 and 127.

Comments received in response to notice 73-8 were generally opposed to broadening the applicability of part 139. It was asserted that compliance with the standards and equipment requirements of part 139 was, in many cases, not feasible, and that the financial burden of compliance was disproportionate to the air service and safety benefits that might be realized. Several comments noted that budgeting and funding cycles for many State and local governments required as much as 2 years advance planning and that full compliance within the 1-year period contemplated by the notice was not possible.

The FAA recognizes that full compliance with part 139 may, in many cases, impose an undue burden and be economically unreasonable, particularly for airports that only serve infrequent charter operations and those in remote and isolated areas of sparse population. In such cases, considerations of the public interest may outweigh the requirement for full compliance. Section 612 of the Federal Aviation Act specifically provides such exemption authority and § 139.19 and part 11 set forth the procedures for applying for exemptions. In this regard, it should be noted that the FAA will carefully review all factors related to an airports operation to determine whether an exemption should be granted. Although the standards and equipment requirements now contained in part 139 are considered to be minimum requirements, they are the subject of continuing study, and where that study, or information brought to the attention of the FAA, shows that adjustment of those requirements is feasible, rulemaking action will be taken.

The proposal in notice 73-8 for certification of those additional airports to which part 139 is now made applicable has been changed in the light of comments received. That proposal contemplated issuance of an airport operating certificate based on assurances of compliance with part 139 within 1 year from the effective date of the certificate. The FAA recognizes that supplemental and charter air carrier operations are typically responsive to short-term or short-notice demands and that the random and unscheduled character of these operations prevents accurate forecasting of the additional airports that may be included in the applicability of part 139 by this amendment. Thus, the number of airports desiring to service their operations may not be as great as anticipated. In any event, in view of the difficulties that have been encountered by some airports now being certificated, the FAA believes that, for the airports that would be required to comply with part 139 by virtue of this amendment, it is desirable to provide for the issuance of airport operating certificates to those airports that may not be able to comply with all of the requirements of part 139 before May 21, 1973.

The FAA has a substantial body of knowledge and data, based on documentation and operating experience, relating to those additional airports to which part 139 will now be applicable. The FAA obtains data relating to all airports open to the public. Data relating to all airports serving air carrier aircraft, including those in the National Airport System Plan, is gathered by FAA field personnel, general aviation inspectors, air carrier inspectors, and flight inspection personnel who visit public airports and observe airport and operating conditions in the routine discharge of their duties. Additionally, where traffic control towers or flight service stations are located on or near airports, FAA personnel assigned to those facilities have an opportunity and duty to observe and report conditions. An air carrier conducting cargo flights, charter flights and other special services under part 121 is required to determine that any airport it intends to use is properly equipped and adequate for the proposed operation.

Based on this body of data and in view of the operating experience of those additional airports to which part 139 will now be applicable, the FAA has determined that they are able to conduct a safe operation in accordance with the requirements of the act, and that provisional airport operating certificates, subject to such terms, conditions and limitations as the Administrator finds are reasonably necessary to assure safety in air transportation, may be issued to those airports pending their compliance with part 139.

Accordingly, a new § 139.12 has been added to part 139 which provides for provisional certification, effective May 21, 1973, for a period of 45 days. That certification may be extended to May 21, 1974, if the airport operator, together with a request for such extension and request for delivery of the certificate, furnishes the name and address of the airport, the airport owner, and the airport operator, and his assurances that safety will be maintained at least at the level current on May 21, 1973. Holders of these provisional airport operating certificates would then be required to submit to the appropriate regional director before September 1, 1973, a schedule showing how compliance with each requirement will be achieved, except as to those requirements with which the operator believes compliance is not feasible or in the public interest and for which an exemption is requested. Thereafter, the certificate holder would be required to submit, before January 15, 1974, a report showing to what extent compliance with part 139 has been achieved. If the airport operator does not request extension of the 45-day provisional certificate before July 5, 1973, the certificate expires on that date.

It was asserted in several comments that in the enactment of section 612 of the Federal Aviation Act that Congress did not intend that airports other than airports regularly serving scheduled air carriers that hold certificates of public convenience and necessity issued by the CAB and operate large aircraft into those airports be certificated. The FAA believes that section 612 of the Federal Aviation Act applies to all airports that

serve CAB-certificated air carriers, and that this rulemaking action is reasonable and necessary to comply with the Congressional mandate stated in the act. In this connection, it should be noted that section 610(a)(8) makes it unlawful for any person to operate an airport serving air carriers certificated by the CAB without an airport operating certificate, or in violation of the terms of any such certificate. By this amendment, part 139 is broadened to be made applicable to those four categories of air carrier operations listed above in this preamble in order to cover all airports serving CAB-certificated air carriers. However, it is not intended that part 139 be applicable to airports at which air carrier training, ferry, check, or test operations are conducted, by reason of these operations. These airports are not by reason of these operations considered to be "serving" air carriers.

One comment was received relating to the proposal to issue airport operating certificates that expire in 1 year to those additional airports. The commentator suggested that these certificates be issued for a longer period. With respect to these certificates, the FAA feels that the 1-year duration of provisional airport operating certificates will enable the FAA to work out problems and programs with airport operators, to determine to what extent any exemption requested may be justified, and at the end of the 1-year period issue regular certificates for the provisional certificates.

Another comment objected to the requirement in present §§ 139.13 and 139.31 for airport operations manuals and recommended that this requirement be applicable only to airports which have more than 500 air carrier departures annually. The FAA does not agree. The airport operations manual is an essential document showing how compliance is to be achieved, and serves as a guide and reference for airport operators and other airport personnel.

A criticism of present § 139.19, relating to petitions for exemption from safety equipment requirements was made to the effect that the section was redundant and unduly restrictive in view of the provisions in part 11 providing for petitions for exemptions. It should be noted that § 139.19 provides for exemptions from certain specified requirements based on a finding that compliance would be contrary to the public interest, in accordance with the requirements of section 612 of the act, whereas part 11 provides for general exemptions based on a finding that the exemption would be in the public interest.

One comment recommended that the fire fighting equipment requirement under § 139.49 be applicable, at airports which serve only small aircraft, only if such requirement is stated on its operating certificate. The FAA believes that the fire fighting equipment requirement applicable to index A is the minimum general standard for an airport. However, if an operator believes that compliance is not feasible or reasonable and that public interest considerations justify an exemption, he may file a petition for an exemption. Such petitions will be given full and due consideration by the FAA.

In connection with § 139.49, it should be noted that for the purpose of identifying fire fighting and rescue equipment and service requirements, an airport, including heliports, which serves fewer than five scheduled departures per day of large aircraft by air carriers would fall in index A. Thus, index A would be applicable to airports and heliports serving only unscheduled operations by CAB-certificated air carriers (supplemental air carriers and charter operations by air carriers), or operations with small aircraft (scheduled or unscheduled), or both. Where an index has been established, based on scheduled large aircraft departures, additional unscheduled or small aircraft operations would not increase or affect index selection.

Another comment suggested that § 139.89, relating to actions to be taken when firefighting or rescue equipment becomes inoperable, be completely redrafted because the "down-time" allowance was an impractical limit in remote areas. It should be noted that the requirements of this section are, to a certain extent, variable as authorized by the Administrator. In some cases, petitions for exemption may be justified by the circumstances.

Based on further consideration in view of comments received in response to the notice, the FAA has concluded that airports that serve air taxi operations conducted pursuant to a route substitution agreement with an air carrier are not "serving" a CAB-certificated air carrier. It appears from the legislative history of section 612 of the act that the airport certification requirements do not apply to those airports serving air taxis as a result of these agreements. In this respect it should be noted that an air taxi operator operates under an exemption issued by the CAB and therefore is not an air carrier certificated by the CAB.

The FAA does not agree with another comment that part 139 should not apply to airports that are used for "refueling" by a CAB-certificated air carrier. These airports come within the purview of section 612, since they are rendering definite services to the air carriers and as such are serving CAB-certificated air carriers and are required to comply with part 139.

Finally, it should be noted that part 139 is limited to land airports. The FAA is aware that there are a few CAB-certificated air carriers operating seaplanes (or float planes) in Alaska. These operations are conducted in small aircraft into remote unattended water bodies without delineated landing areas on an infrequent basis where land airports and facilities cannot be justified or maintained. If there are any facilities at all, they consist of nothing more than a floating dock or ramp which are used by both boats and aircraft. Furthermore, many of the water bodies are in the public domain and there is no identifiable operator. The FAA does not believe such airports come within the intent of the airport certification requirements of the Federal Aviation Act.

In consideration of the foregoing, part 139 of the Federal Aviation regulations is amended, effective May 21, 1973, as follows:

1. By amending the title to read "Part 139—Certification and Operations: Land Airports Serving CAB-certificated Air Carriers."

2. By amending § 139.1 to read as follows:

§ 139.1 Applicability.

(a) This part prescribes rules governing the certification and operation of land airports serving air carriers that hold certificates of public convenience and necessity issued by the Civil Aeronautics Board and operate aircraft into those airports.

(b) As used in this part—

(1) "Air operations area" means an area of the airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft;

(2) "Air carrier user" means an air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board; and

(3) "Certificated airport" means an airport that is certificated under subpart B of this part.

3. By amending § 139.3 to read as follows:

§ 139.3 Certification: General.

(a) After May 20, 1973, no person may operate a land airport serving any CAB-certificated air carriers operating aircraft into that airport, in any State of the United States, the District of Columbia, or any territory or possession of the United States, without or in violation of an airport operating certificate for that airport, or in violation of this part or the approved airport operations manual for that airport.

4. By amending § 139.11 to read as follows:

§ 139.11 Issue of certificate.

An applicant for the issue of an airport operating certificate under this subpart is entitled to a certificate if—

(a) It serves or is expected to serve scheduled air carrier users; and

(b) The Administrator, after investigation, finds that the applicant is properly and adequately equipped and able to conduct a safe operation in accordance with this part, and approved the airport operations manual submitted with and incorporated in the application.

5. By adding a new § 139.12 to read as follows:

§ 139.12 Issue of certificates for airports serving only unscheduled operations, or operations with small aircraft.

(a) Notwithstanding any other provision of this part, a person who on May 20, 1973, operates an airport or heliport which serves CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft may continue to serve such air carriers

and is certificated under this part until July 5, 1973.

(b) An airport operator may obtain an extension of the termination date of the certificate to May 21, 1974, if together with a request for such extension and for delivery of the certificate, it submits to the appropriate Regional Director:

(1) The name and address of the airport, the airport owner, and the airport operator; and

(2) Its assurances that at least the level of safety current at the airport on May 21, 1973, will be maintained.

(c) An airport operating certificate issued under this section shall—

(1) Contain a provision that at least the current level of safety will be maintained at the airport, and such other terms, conditions, or limitations that the Administrator may find necessary; and

(2) Be effective until May 21, 1974, unless sooner surrendered, suspended, revoked, or otherwise terminated for violation of the terms of the certificate.

(d) If a request for extension and delivery of an airport operating certificate issued under this section is not made before July 5, 1973, the certificate terminates on that date.

(e) The holder of a certificate issued under this section shall—

(1) Maintain at least the level of safety current at the airport on May 21, 1973;

(2) Submit to the appropriate regional director before September 1, 1973, a schedule for compliance, showing how compliance with each requirement of this part will be achieved, and any requests for exemptions from any of those requirements in accordance with part 11 of this chapter or § 139.19; and

(3) Submit a status report to the appropriate regional director before January 15, 1974, showing to what extent compliance has been achieved.

6. By amending paragraph (a) of § 139.13 to read as follows:

§ 139.13 Application for certificate.

(a) Each applicant for the issue of an airport operating certificate under this subpart must submit its application on a form and in the manner prescribed by the Administrator, accompanied by and incorporating its airport operations manual prescribed by subpart C of this part, to the appropriate FAA airport field office in whose area the applicant proposes to establish or has established its airport. Each applicant should submit its application at least 120 days before the intended date of operation.

* * * * *

7. By amending paragraphs (a) and (b) of § 139.19 to read as follows:

§ 139.19 Exemptions: safety equipment.

(a) Any person required to apply for an airport operating certificate under this part may petition the Administrator, under § 11.25 of part 11 of this chapter (general rulemaking procedures), for an exemption from the safety equipment requirements of § 139.49, § 139.53, § 139.65, § 139.105, § 139.109, or § 139.111, on the grounds that compliance would be contrary to the public interest.

(b) Each petition filed under paragraph (a) of this section must be submitted in duplicate to the appropriate FAA airport field office in whose area the applicant proposes to establish or has established its airport.

* * * * *

8. By inserting the phrase "or G" after the phrase "Subpart E" in the first sentence in § 139.21.

9. By striking out the phrase "Subpart D of this part," in paragraph (a)(1) of § 139.33, and inserting the phrase "Subpart D or F of this part, as applicable," in place thereof.

10. By striking out the phrase "Subpart E of this part" in paragraph (a)(2) of § 139.33, and inserting the phrase "Subpart E or G of this part, as applicable," in place thereof.

11. By amending the heading of subpart D to read as follows:

Subpart D—Certification Eligibility: Airports Other Than Heliports

12. By amending the lead-in language in § 139.41 to read as follows:

§ 139.41 Eligibility requirements: General.

To be eligible for an airport operating certificate for an airport other than a heliport, an applicant must—

* * * * *

13. By amending the heading of subpart E to read as follows:

Subpart E—Operations: Airport Other Than Heliports

14. By amending the lead-in language in § 139.81 to read as follows:

§ 139.81 Operation rules: General.

Each person operating an airport, other than a heliport, for which an airport operating certificate has been issued under subpart B of this part shall—

* * * * *

15. By adding new subparts F and G to read as follows:

Subpart F—Certification eligibility: Heliports

Sec.

AUTHORITY: Sec. 313(a), 609, 610(a), and 612, Federal Aviation Act, 1958; 49 U.S.C. 1354(a), 1429, 1430, PL 91-258, 84 Stat. 234, 235, PL 92-174, 85 Stat. 492.

Subpart F—Certification Eligibility: Heliports

§ 139.101 Eligibility requirements: General.

To be eligible for an airport operating certificate for a heliport, an applicant must—

(a) Comply with the applicable requirements of subparts A, B, and C of this part;

(b) Comply with each applicable section of this subpart; and

(c) Comply with the requirements of §§ 139.51, 139.55 through 139.63, and 139.67.

§ 139.103 Marking and lighting.

(a) The applicant for an airport operating certificate must show that any items of airport lighting are in operable condition. An airport lighting item is considered inoperable if, during periods of use, it fails to adequately illuminate its area or creates a lighting effect that misleads or confuses the user.

(b) The applicant must show that all vehicle parking, roadway, and building illumination lighting on its airport is so designed, adjusted, or shielded as not to blind or hinder air traffic control or aircraft operations.

(c) The applicant must show that any markings that it has on its airport are clearly visible and in good condition.

§ 139.105 Heliport firefighting and rescue equipment and service.

Except to the extent that the Administrator determines under § 139.19 that it would be contrary to the public interest, the applicant for an airport operating certificate must show that it has, and will have, available during helicopter operations, at least the airport firefighting and rescue equipment with the vevehicle response-time capability and trained personnel prescribed in this section.

(a) The applicant must show that it has at least the required firefighting and rescue equipment assigned for index A aircraft by § 139.49(b)(1), with the 3-minute response time prescribed by § 139.49(e)(1). A fixed installation, a wheeled vehicle (other than self-propelled), or off-airport firefighting and rescue equipment may be used if the prescribed 3-minute response time is met.

(b) The applicant must show that it has the capability to—

(1) Operate and maintain all required firefighting and rescue equipment owned by it in operable condition; and

(2) Alert by siren or equivalent alarm the firefighting and other personnel having a need to know of any existing or impending emergency that requires, or might require, their use.

(c) The applicant must show that it has available appropriately clothed and sufficiently qualified firefighting and rescue personnel to insure at least 85 percent of the required maximum agent discharge rate of firefighting equipment.

(d) The applicant must show that the firefighting and rescue personnel are familiar with the operation of the firefighting and rescue equipment and understand the basic principles of firefighting and rescue techniques.

§ 139.107 Traffic and wind direction indicators.

Except to the extent that the Administrator determines under § 139.19 that

it would be contrary to the public interest, the applicant for an airport operating certificate must show that it has on its airport a wind direction indicator, installed to provide appropriate wind direction information, and lighted during the conduct of night operations.

§ 130.109 Public protection.

Except to the extent that the Administrator determines under § 139.19 that it would be contrary to the public interest, the applicant for an airport operating certificate must show that it has on its airport appropriate safeguards against inadvertent entry of persons into any air operations area.

§ 139.111 Airport condition assessment and reporting.

(a) The applicant for an airport operating certificate must show that it has appropriate procedures for identifying, assessing, and disseminating information to air carrier users of its airport, by Notices to Airmen or other means acceptable to the Administrator, concerning conditions on and in the vicinity of its airport that affect, or may affect, the safe operation of aircraft.

(b) The procedures prescribed by paragraph (a) of this section must cover the following conditions:

(1) Construction or maintenance work on pavement areas.

(2) The presence and depth of snow on pavement areas.

(3) The presence of parked aircraft or other objects on, or next to, runways, taxiways, or helicopter landing surface.

(4) The failure or irregular operation of all or part of the airport lighting system, including the approach, threshold, and obstruction lights operated by the operator of the airport.

(5) The presence of a large number of birds.

§ 139.113 Identifying, marking, and reporting construction and other unserviceable areas.

(a) The applicant for an airport operating certificate must show that it has appropriate procedures for the following items when on or adjacent to any air operations area:

(1) Conspicuously identifying all construction areas and other unserviceable pavement areas by marking and lighting them.

(2) Identifying and marking the location of all utilities in construction areas that, if interrupted, could cause failure of a facility or navaid.

(b) Identifying and marking any areas adjacent to navaids that, if traversed, could cause emission of false signals or failure of the navaids.

Subpart G—Operations: Heliports

Sec.
139.121 Operational rules: General.
139.123 Pavement areas.
139.125 Snow removal and positioning.
139.127 Airport firefighting and rescue equipment and service.

AUTHORITY.—Secs. 313(a), 609, 610(a), and 612, Federal Aviation Act, 1958; 49 U.S.C. 1354(a), 1429, 1430, Public Law 91-258, 84 Stat. 234, 235, Public Law 92-174, 85 Stat. 492.

Subpart G—Operations: Heliports

§ 139.121 Operations rules: General.

Each person operating an airport for which an airport operating certificate has been issued under subpart B of this part shall—

(a) Operate, maintain, and provide facilities, equipment, systems, and procedures at least equal in condition, quality, and quantity to the standards currently required for the issue of the airport operating certificate for that airport;

(b) Have sufficient personnel available, and require that personnel comply with its approved airport operations manual in the performance of their duties;

(c) Comply with the additional rules of this subpart; and

(d) Comply with the requirements of §§ 139.87, 139.91, and 139.93.

§ 139.123 Pavement areas.

The operator of each certificated airport shall comply with the following requirements:

(a) It shall promptly repair each crack or hole in the landing area that exceeds 3 inches across or 3 inches deep.

(b) It shall promptly, and as completely as practicable, remove from the landing areas, snow, ice, slush, standing water, mud, dust, sand, loose aggregate, or other contaminants as required by operational considerations.

(c) Where sand is used on ice on the pavement areas, it shall use only sand, free of corrosive salts, that adheres to the snow or ice sufficiently to minimize aircraft engine ingestion of the sand.

(d) It shall promptly prevent ponding on any pavement area on the airport that has a depth or other dimension that would obscure markings.

§ 139.125 Snow removal and positioning.

The operator of each certificated airport shall move any drifted or piled snow off the usable landing pad (except as otherwise authorized in its approved airport operations manual). When unable to comply with this requirement, the operator shall promptly notify the users.

§ 139.127 Airport firefighting and rescue equipment and service.

The operator of each certificated airport shall at all times comply with the following:

(a) Except as provided in paragraph (b) of this section, it shall provide the required firefighting and rescue equipment and service prescribed in § 139.105 during all periods of scheduled aircraft operations.

(b) When any required firefighting or rescue vehicle becomes inoperable, it shall provide appropriate replacement equipment within 8 hours thereafter. However, if appropriate replacement equipment is not available within that period, it shall promptly issue a notice to airmen to that effect. When the equipment is inoperable and the notice has been issued, and the service level is not restored within 10 calendar days, air carrier operations on the airport must be discontinued.

(Secs. 313(a), 609, 610(a), and 612 Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1429, 1430; Public Law 91-258, 84 Stat. 234, 235; Public Law 92-174, 85 Stat. 492.)

Issued in Washington, D.C., on April 17, 1973.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.73-7708 Filed 4-19-73;2:00 pm]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2364]

PART 13—PROHIBITED TRADE PRACTICES

Atlantic Carpet Corp. and Walter A. Tinsley

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.106 *Importing, manufacturing, selling or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191.) [Cease and desist order, Atlantic Carpet Corp. et al., Calhoun, Ga., docket No. C-2364, Mar. 16, 1973.]

In the Matter of Atlantic Carpet Corp., a Corporation, and Walter A. Tinsley, Individually and as an Officer of the Corporation

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

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

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

standard or regulation continued in effect, issued, or amended under the provisions of the aforesaid act.

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

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

It is further ordered, That respondents herein shall within 10 days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning: (1) The identity of the products which gave rise to the complaint; (2) the identity of the purchasers of said products; (3) the amount of said products on hand and in the channels of commerce; (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and the results thereof; (5) any disposition of said products since March 17, 1972; and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

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

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

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

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

Issued March 16, 1973.

By the Commission.

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

[FR Doc.73-7609 Filed 4-19-73;8:45 am]

[Docket No. C-2368]

PART 13—PROHIBITED TRADE PRACTICES

Carpetowne, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.30, Composition of goods: § 13.30-75, Textile Fiber Products Identification Act; § 13.73, Formal regulatory and statutory requirements: § 13.73-90, Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1170, Advertising and promotion; § 13.1185, Composition: § 13.1185-80, Textile Fiber Products Identification Act; § 13.1212, Formal regulatory and statutory requirements: § 13.1212-80, Textile Fiber Products Identification Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590, Composition: § 13.1590-70, Textile Fiber Products Identification Act; § 13.1605, Content; § 13.1623, Formal regulatory and statutory requirements: § 13.1623-80, Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845, Composition; § 13.1850, Content; § 13.1852, Formal regulatory and statutory requirements: § 13.1852-70, Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70.) [Cease and desist order, Carpetowne, Inc., et al., Salt Lake City, Utah, docket No. C-2368, Mar. 26, 1973.]

In the Matter of Carpetowne, Inc., a Corporation, and Daniel A. Pentelute, and Phillip A. Bullen, Individually and as Officers of Said Corporation

Consent order requiring a Salt Lake City, Utah, retailer of rugs, carpets, and floor coverings, among other things, to cease misbranding and falsely advertising its textile fiber products.

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

It is ordered, That respondents Carpetowne, Inc., a corporation, its successors and assigns, and its officers, and Daniel A. Pentelute and Phillip A. Bullen, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device (hereinafter, in this and other paragraphs of this order, referred to as "respondents"), in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

1. Misbranding textile fiber products by failing to affix a stamp, tag, label or other means of identification to each such textile fiber product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act; or as an alternative to the foregoing, where properly labeled samples, swatches, or specimens are used to effect the sale of articles of wearing apparel or other household textile articles which are manufactured specifically for a particular customer after the sale is consummated, and the articles of wearing apparel or other household textile articles are of the same fiber content as the samples, swatches, or specimens from which the sale was effected, failing to provide an invoice or other paper to accompany them showing the information otherwise required to appear on a label, as required by rule 21 (b) of the rules and regulations under the Textile Fiber Produts Identification Act, effective March 3, 1960, as amended.

2. Falsely and deceptively advertising textile products by:

a. Making any representations by disclosure or by implication, as to fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale, or offering for sale, of such textile fiber product unless the same information required to be shown on the stamp, tag, label, or other means of identification under sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

b. Failing to set forth in advertising the fiber content of floor covering containing exempted backings, fillings, or paddings, that such disclosures relate only to the face, pile, or outer surface of such textile fiber products and not to the exempted backings, fillings, or paddings.

c. Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in said advertisement.

d. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and

conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

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

It is further ordered, That the respondents shall forthwith distribute a copy of this order to all present and future personnel of respondents engaged in the offering for sale, or sale, of any carpeting or any other merchandise offered for sale by respondents or engaged in any aspect of the preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

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

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

Issued March 26, 1973.

By the Commission.

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

[FR Doc.73-7608 Filed 4-19-73;8:45 am]

[Docket No. C-2366]

PART 13—PROHIBITED TRADE PRACTICES

Haddad Bros., Inc., et al.

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191.) [Cease and desist order, Haddad Bros., Inc., et al., New York, N.Y., docket No. C-2366, Mar. 20, 1973.]

In the Matter of Haddad Bros., Inc., a Corporation, and Mac A. Haddad, Joseph A. Haddad, David A. Haddad, Sam A. Haddad, Individually and as Officers of the Corporation

Consent order requiring a New York City manufacturer and seller of children's garments, including but not limited to infant christening sets, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

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

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

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

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

It is further ordered, That respondents herein shall, within 10 days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning: (1) The identity of the products which gave rise to the complaint; (2) the identity of the purchasers of said products; (3) the amount of said products on hand and in the channels of commerce; (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof; (5) any disposition of said products since April 28, 1970; and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

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

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

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

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

Issued March 20, 1973.

By the Commission.

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

[FR Doc.73-7611 Filed 4-19-73;8:45 am]

[Docket No. C-2367]

PART 13—PROHIBITED TRADE PRACTICES

International Marketing Corp. and Charles M. Bisbee

Subpart—Advertising falsely or misleadingly: § 13.55, Demand, business or other opportunities; § 13.60, Earnings and profits; § 13.135, Nature of product or service; § 13.143, Opportunities; § 13.205, Scientific or other relevant facts. Subpart—Delaying or withholding corrections, adjustments, or action owed: § 13.675, Delaying or withholding corrections, adjustments, or action owed. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055, Furnishing means and instrumentalities of misrepresentation or deception. Subpart — Misrepresenting

oneself and goods—Business status, advantages or connections: § 13.1490, Nature; —Goods: § 13.1610, Demand for or business opportunities; § 13.1615 Earnings and profits; § 13.1697, Opportunities in product or service. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892, Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts. Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.1935, Earnings and profits; § 13.2015, Opportunities in product or service; § 13.2063, Scientific or other relevant facts. Subpart—Securing agents or representatives by misrepresentation: § 13.2125, Demand or business opportunities; §13.2130, Earnings: § 13.2148, Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.) [Cease and desist order, International Marketing Corp. et al., Oklahoma City, Okla., docket No. C-2367, Mar. 21, 1973.]

In the Matter of International Marketing Corp., a Corporation, and Charles M. Bisbee, Individually and as an Officer of Said Corporation

Consent order requiring an Oklahoma City, Okla., distributor and seller of personal improvement courses, among other things to cease misrepresenting that no special ability or aptitude is required to become a successful distributor; distributors will have no difficulty in selling respondents' products; and respondents' distributors are uniformly successful and enjoy substantial incomes. The order further requires respondent to administer a personality evaluation test and to evaluate the personal history of the prospect to determine his ability to be as successful as others have and to provide each prospect with the results reasonably in advance of the execution of a contract. Further, prospects must be given a 3-day "cooling-off" cancellation period.

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

It is ordered, That respondents International Marketing Corp., a corporation, and Charles M. Bisbee, individually and as an officer of said corporation, its successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale or sale of franchises, licenses, or distributorships to sell personal improvement courses, books, phonograph records, or any other product, or of the books, phonograph records, supplies, or equipment for use in connection therewith, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or indirectly that:

(a) No special ability or aptitude is required to become a successful franchisee or distributor of respondents' products; misrepresenting, directly or indirectly, the experience, background, aptitudes, or abilities required to become a successful franchisee or distributor of respondents' products.

(b) Franchisees or distributors will encounter no difficulty in selling respondents' products; misrepresenting, directly or indirectly, the degree of effort required to sell respondents' products.

(c) Respondents' franchisees or distributors are uniformly successful and all enjoy substantial income; misrepresenting, directly or indirectly, the degree of success or amount of income realized by respondents' franchisees or distributors.

(d) Franchisees or distributors of respondents' products will earn or receive any stated or gross or net amount of earnings or profits; or representing, directly or indirectly, the past earnings of franchisees or distributors unless in fact the past earnings represented are those of a substantial number of franchisees or distributors in the community or geographical area in which such representations are made and accurately reflect the average earnings of these franchisees or distributors under circumstances similar to those of the prospective franchisee or distributor to whom the representation is made.

2. Using any deceptive scheme, device, or plan to obtain leads to prospective franchisees or distributors or to induce persons to become franchisees or distributors.

3. (a) Failing to determine in good faith, prior to having a prospective franchisee or distributor enter into an agreement to become a franchisee or distributor of respondents' products, through the evaluation of the personal history of the prospect and the administration of personality evaluation tests, whether the prospect possesses the aptitude and abilities necessary to successfully sell respondents' products and to recruit other persons to sell respondents' products.

(b) Failing to inform prospective franchisees or distributors of the results of such evaluation and testing reasonably in advance of the execution of the agreement to become a franchisee or distributor.

4. Failing to furnish to prospective franchisees or distributors reasonably prior to such persons agreeing to become franchisees or distributors a written tabulation or statistical summary showing for each of the corporate respondents' operating divisions the following information:

(a) The median and mean gross sales to respondents' franchisees or distributors, exclusive of initial inventories sold to new franchisees or distributors, during the 12-month period preceding the month in which the information is to be furnished.

(b) The number of franchisees or distributors at the beginning of the 12-month period, the number appointed during the 12-month period, the number terminated during the 12-month period, the number retained at the end of the 12-month period, and the median and mean length of time that those retained at the end of the 12-month period have been respondents' franchisees or distributors.

5. Using any program which fails to:

(a) Inform each person orally before entering into any contract to participate in such program and disclose clearly and conspiculously in such written contract entered into with him that he may cancel for any reason by notification to respondents in writing within 3 business days from the date of execution of such contract.

(b) Refund immediately all moneys to persons who:

(1) Cancel their contracts in accordance with paragraph (a); or

(2) Show that respondents' contract solicitation or performance were attended by or involved violation of any of the provisions of this order: *Provided, however*, That subpart (2) hereof shall not apply to such contracts entered into before the date of this order, nor shall the payments of refunds hereunder be construed as an admission that this order or any part thereof has been violated.

6. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the advertising or sale of franchises or distributorships to sell respondents' products, and failing to secure from each salesman or other person a signed statement acknowledging receipt of said order.

7. Furnishing others any means or instrumentalities, services or facilities, which are calculated to mislead participants or prospective participants as to any of the matters or things prohibited by this order.

It is further ordered, That:

(A) Respondents immediately obtain from each person described in paragraph 6 above a signed statement setting forth his intention to conform his business practices to the requirements of this order.

(B) Respondents advise each such present and future salesman, agent, solicitor, independent contractor, distributor, or any person engaged in the promotion, sale, or distribution of any of respondents' franchises or distributorships, that respondents will not engage or will terminate the engagement or services of any said person, unless such person agrees to and does file a notice with the respondents that he will be bound by the provisions contained in this order.

(C) If such party will not agree to so file notice with the respondents and be bound by the provisions of the order, the respondents shall not use such third party, or the services of such third party to promote, sell, or distribute any of respondents' franchises or distributorships.

(D) That respondents so inform the persons so engaged that the respondents are obligated by this order to discontinue dealing with those persons who continue on their own any of the deceptive acts or practices prohibited by this order.

(E) That respondents institute a program of continuing surveillance adequate to reveal whether the business operations

of each of said persons so engaged conform to the requirements of this order; and

(F) That respondents discontinue dealing with the persons so engaged, revealed by the aforesaid program of surveillance, who continue on their own, in any act or practice prohibited by this order.

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

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

Issued March 21, 1973.

By the Commission.

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

[FR Doc.73-7610 Filed 4-19-73;8:45 am]

[Docket No. C-2365]

PART 13—PROHIBITED TRADE PRACTICES

Danish Imports Center, Inc., and Allen McCullough

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191.) [Cease and desist order, Danish Imports Center, Inc., et al., Eugene, Oregon, docket No. C-2365, Mar. 19, 1973.]

In the Matter of Danish Imports Center, Inc., a Corporation, and Allen McCullough, individually and as an officer of said Corporation

Consent order requiring a Eugene, Oreg., importer and retailer of furnishings and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the Flammable Fabrics Act, as amended.

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

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

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

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

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and the results thereof, (5) any disposition of said products since July 26, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report a complete description of each style of carpet or rug currently in inventory. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

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

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

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

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

Issued March 19, 1973.

By the Commission.

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

[FR Doc. 73-7665 Filed 4-19-73;8:45 am]

Title 18—Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-425; Opinion No. 658]

PART 2—GENERAL POLICY AND INTERPRETATIONS

PART 154—RATE SCHEDULES AND TARIFFS

Area Rates for Rocky Mountain Area

APRIL 11, 1973.

On July 15, 1971, the Commission issued a "Notice of Proposed Rulemaking and Order Prescribing Procedure" (46 FPC 43) in this proceeding, 36 FR 13621, July 22, 1971, pursuant to the Administrative Procedure Act, 5 U.S.C. 551, et seq., and sections 4, 5, 7, and 16 of the Natural Gas Act [1] proposing to issue rules fixing just and reasonable minimum and maximum rates, and otherwise regulating jurisdictional sales of natural gas made under contracts dated before October 1, 1968, in the Rocky Mountain area,[2] and to determine whether the initial rates established by our order No. 435[3] for said area should apply to contracts dated on and after October 1, 1968.

The Commission stated in its notice of proposed rulemaking that:

> Our purpose is to establish rates which will result in an adequate supply of natural gas for consumers at the lowest rate consistent with maintaining an industry structure capable of providing, and motivated to provide, service with its attendant risks.

STATUTORY BASIS FOR, AND SCOPE OF, THIS PROCEEDING

This proceeding reflects an exercise of the Commission's authority to regulate

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[1] 52 Stat. 822, 823, 824, 825, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717o.

[2] The Rocky Mountain Production Area is defined in Ordering Paragraph (A) herein.

[3] Order No. 435, Opinion and Order Establishing Initial Rates in the Rocky Mountain Area, dockets Nos. R-389 and R-389A, issued July 15, 1971, 46 FPC 68, appeal docketed sub nom., A.P.G.A. v. F.P.C., No. 71-1812, CADC.

rates through utilization of the rulemaking procedures established in the Administrative Procedure and Natural Gas Acts. In our recent order Nos. 411[4] and 435,[5] as well as in an order entered in this docket on September 7, 1971,[6] we set forth in detail the legal basis for our decision to proceed by rulemaking, and the reasons for our decision to do so. We adhere to the conclusions there expressed, for the reasons therein stated, and do not undertake to repeat what has been fully explored.

Our notice of rulemaking in this docket was appealed to the Court of Appeals for the Tenth Circuit (Phillips Petroleum Company, et al. v. F.P.C., Nos. 71-1659, et al.) on the ground, inter alia, that just and reasonable rates cannot be set by informal rulemaking. This attack on the jurisdictional base of our proceeding necessitated deferral of action in this docket pending resolution by the Court of the validity of the regulatory method which we seek to employ. Judicial sanction of ratemaking by rulemaking has now been received. In its opinion rendered February 20, 1973, the Tenth Circuit Court of Appeals held:

> In summary, we are of the opinion that the proposed rulemaking is in harmony with the comments of the Supreme Court contained in Permian Basin and in harmony also with the Natural Gas Act and the Administrative Procedure Act * * *. The petition for review should be and the same is hereby denied. (*Phillips Petroleum Company, et al.* v. *F.P.C.*, Nos. 71-1659, et al., slip opinion at pp. 27-28.)

While the expedition we sought in this proceeding was not wholly attainable because of judicial review, we now have the benefit of a clear mandate for ratemaking by rulemaking, not only for Rocky Mountain, but nationally. In this sense, the delay encountered here was well worthwhile in eliminating uncertainty to our procedures.

Our action in this docket is designed as an intermediate step in a different approach to producer rate regulation. By notice of rulemaking in docket No. R-389B issued today, we propose to depart from area rate cases and contract vintaging, and turn to national ratemaking by rulemaking, proposing the formulation of a single national rate for gas sold from wells commenced after January 1, 1973. Our reasons for proposing this change are fully stated in the R-389B notice and need not be repeated here.

It is obvious that the transition from a multiplicity of area rates to a single national rate, and a change from contract vintaging to rate prescription by date of well commencement, will produce some anomalous results during the period of transition. Our opinion today in this docket will cause some anomalies, which we recognize and accept as a necessary corollary of change. Our choice has been to issue orders in this docket which will be consistent with the overall national changes that we propose.

[4] 44 FPC 1112 (1970).
[5] 46 FPC 68 (1971).
[6] 46 FPC 616 (1971).

We have heretofore determined, in our order of September 7, 1971, that this docket should be confined to the establishment of just and reasonable rates for gas sold under contracts dated prior to October 1, 1968. This opinion and order establishes just and reasonable rates for gas sold under contracts dated prior to October 1, 1968, which is produced from wells commenced prior to January 1, 1973. The legal rate for gas produced from wells commenced after January 1, 1973, will be determined in docket R-389B, where a record will be compiled on current costs and noncost factors which will provide a basis for setting rates for new gas. Until R-389 B is concluded, Rocky Mountain gas sold under contracts dated prior to October 1, 1968, which is produced from wells commenced after January 1, 1973, will be governed by the initial rate provisions of order 435.

The provisions of order 435 shall also apply to gas sold under contracts dated between October 1, 1968, and June 17, 1970, until such time as just and reasonable rates are prescribed in docket R-389B.

In so ordering, we acknowledge the unusual result of setting a just and reasonable rate for old gas which is higher than the approved initial rate for more recently found gas supplies. We cannot, however, escape the evidentiary force of this record which compels a finding of 24 cents as the just and reasonable rate for flowing gas in Rocky Mountain. Nor can we, under the restrictions imposed by our notices in this docket and the consequent limitations of this record, alter the initial rates prescribed in order 435. The setting of just and reasonable rates applicable to new gas in Rocky Mountain (and nationally) must await a decision in docket R-389B, and until then, there will be an imbalance between flowing gas and new gas prices in Rocky Mountain.

We accept this imbalance as a temporary problem. It is a necessary consequence of the changes we are proposing, given the statutory framework of our ratemaking efforts. Two factors militate against the creation of a major problem: First, we fully expect to bring R-389B to a conclusion within a short time span, as stated expressly in the R-389B notice of rulemaking. Second, R-435 imposed no moratorium on rate increase filings which are contractually authorized. Accordingly, we knowingly create a short-term imbalance between flowing gas and new gas rates in Rocky Mountain, this being the necessary price we pay in order to accommodate the national changes in producer regulation which are proposed.

The Evidentiary Record

Producers in the Rocky Mountain area with jurisdictional sales in excess of 10 million M ft³ per year and their purchasers, were named respondents to the proceeding.

The Commission's order of July 15, 1971, required specific cost data for 1969 to be filed by the several individual respondents within 45 days; however, large producers who had already submitted national cost data in docket No. AR69-1[7] were exempted. Any interested person could become a party to docket No. R-425 by filing a notice of intention to respond by August 2, 1971.

On August 3, 1971, a conference which had been set in the said notice of rulemaking, "* * * among the parties to this proceeding, including the Commission Staff, concerning the possibility of stipulating as to the use of national cost data filed in docket No. AR69-1, and all other issues involved and the procedures to be followed herein * * *" was convened.[8] On August 9, 1971, the Staff filed, and served on all parties to this proceeding, the stipulations which had been made by all parties in attendance at the conference of August 3, 1971.[9] The stipulation obviated the necessity of the respondent producer and the pipeline companies filing national cost data, and accepted as evidence—despite the hearsay rule—certain specified statistical and financial data sources.

Written responses to the notice of proposed rulemaking were filed by November 12, 1971, and replies to the written submittals were filed by December 10, 1971. In all, approximately 50 parties filed such intentions, and most of them filed responses and replies to responses of others, or joined in such filings.

As a result of these procedures, we have before us a complete record, so compiled that the due process rights of all affected parties have been observed. We have weighed the record evidence, and the arguments of the parties, and our orders herein are made on the basis of the record obtained herein and experience gained in other proceedings.[10]

Rocky Mountain Area

The Staff response, and that of Amerada Hess et al., contain a thorough and detailed description of the physical and operational characteristics of the Rocky Mountain area. These matters, while not in substantial dispute factually, bear heavily on our rate determinations as hereinafter set forth, and accordingly, we adopt much of what has been presented to us and we set forth in some detail the physical and operational characteristics of the area.

The Rocky Mountain region is one of the last remaining frontiers in the lower 48 States for gas and oil exploration and development. The area extends from

[7] Southern Louisiana Area Rate Proceeding, docket Nos. AR61-2, et al., and AR69-1, opinion No. 598, issued July 16, 1971, appeal pending *sub nom.*, *Placid Oil Co.* v. *F.P.C.*, CA5, No. 71-2761.

[8] A listing of the parties who attended the Conference is contained in appendix A which is filed as part of the original document.

[9] A copy of the memorandum of such stipulations is in appendix B which is filed as part of the original document.

[10] *City of Chicago* v. *F.P.C.*, 458 F. 2d 731 (CADC 1971), cert. denied 405 U.S. 1074 (1972); *Cf. N.L.R.B.* v. *Wyman-Gordon Co.*, 394 U.S. 759 (1969); *Pacific Coast & European Conference* v. *U.S.*, 350 F. 2d 197 (9th Cir.), cert. denied 382 U.S. 958 (1965).

Canada almost to Mexico. It contains vast areas and volumes of unexplored rocks, a substantial portion of which are known to be productive, particularly around the rims of the major basins. Compared to other areas, exploration and development are in a relatively youthful stage in the Rocky Mountain region. As we have found, only about 10 to 15 percent of the Rocky Mountain area has been explored so far. (Order No. 435, issued July 15, 1971, p. 11.)

Topographically, the region is divided into a series of lofty mountain ranges attaining elevations of over 14,000 feet, complemented by a series of basins in which near desert conditions often exist. The sparse population, topography, adverse weather conditions during the long winters, inaccessability because of lack of roads, and great distances to service centers make operations difficult and add significantly to costs.

The region is even more complex geologically. Many of the sedimentary basins are potentially hydrocarbon bearing, but they are often deep and complicated, structurally and stratigraphically. The basins range from the structurally relatively simple Williston Basin to highly folded and faulted intermontane basins such as the Wind River and Big Horn Basins of Wyoming. The geology is further complicated by the differences in sedimentation between basins. Moreover, many of the present basins and uplifts are superimposed on an earlier "ancestral" series of basins and uplifts.

Most of the exploration and development in the region to date has taken place along the rims of the basins where structure is obvious, or to relatively shallow depths in young rocks in the deeper portions of the basins. Much of the enormous area and volume of sediments has not been thoroughly prospected.

There are estimated to be over 290,000 square miles and 614,000 cubic miles of sediments which remain to be adequately tested in the region's major producing basin alone. The deepest test well in the Rocky Mountain region, total depth 20,524 feet, is in the Green River Basin. It ceased drilling in upper Cretaceous sediments (frontier sandstones) with many thousands of feet remaining to be tested. Some of the basins, the Greater Green River and Hanna, for example, may contain as much as 30,000 to 35,000 feet of sediments, many of which are potentially productive of gas and oil. To test the deeper portion of most of these deep basins will be costly.

Existing production of gas and oil in the area is from rocks ranging in age from relatively young early Tertiary, the most recent rocks, to ancient Cambrian rocks. One of the largest gas fields in the "lower 48", the San Juan Basin pool complex, with initial reserves in the order of 15 Tcf, is located in northwestern New Mexico and southwestern Colorado. This immense field remains to be definitively explored in the 6,000 feet of sediments underlying relatively young rocks of Cretaceous age which are now producing.

There are severe problems in drilling and completing producing wells in the Tertiary and Cretaceous rocks of portions of most of the producing areas. The sandstones often contain clays which swell during conventional rotary drilling practices and attempts at stimulation. These may so effectively reduce ingress of gas to the well bore that low deliverability results. This leads to closer spacing than the conventional 640 acre units to provide adequate deliverability to support pipelines and produce reserves over a reasonable time. In some cases, deliverability is so low that completion as a producing well may not be justified. The U.S. Bureau of Mines estimates 317 Tcf of gas is locked in these rocks characterized by extremely low permeability and is in addition to the Potential Gas Committee's estimates in this area. Air and gas drilling, nitroglycerine fracturing, field treatment and nuclear stimulation have been attempted to counter the problems of sensitive and complex sands. These techniques are expensive and certainly will not be undertaken without adequate incentive.

There was petroleum activity early in this century in the Rocky Mountain area. The large oil fields of Rangely (Colorado), Salt Creek (Wyoming), and Elk Basin (Wyoming) were discovered in the years 1902, 1906, and 1915, respectively. The first major gas field discoveries were Cedar Creek, Montana, found in 1912, and Bowdoin, Montana, found in 1913.

Despite the early discoveries, the Rocky Mountain area is the only onshore region in the lower 48 States of major potential with extensive areas still undrilled.

Producing depths.—The producing depths in the Rocky Mountain area vary from shallow to intermediate and deep. In the San Juan Basin subarea, the producing depths vary from 1,000 to 4,000 feet in the Pictured Cliffs sandstone; 4,000 to 6,000 feet in the Mesa Verde group; and 6,000 to 8,000 feet in the Dakota sandstone. The San Juan subarea also includes the eastern section of the Paradox Basin in which there is some production from Pennsylvania rock at 8,900 feet. The Aneth Field subarea production is from 5,500 to 6,000 feet. In the Colorado-Julesburg Basin subarea, the principal production is from the Julesburg Basin at depths of 4,000 to 7,000 feet.

In the Uinta-Green River Basin, and the Montana-Wyoming subareas, the Green River, Wind River and Big Horn Basins are the most important basins in those subareas from the standpoint of gas production. In all three of those particular basins there is shallow 1,650 to 3,500 feet older production, and deep 6,000 to 11,000 feet newer production.

In the Montana-Dakota subarea, gas-well gas production in the north central part is at depths of 1,300 feet; in the south central part of the principal gas production is at depths of 4,000 to 5,000 feet, and in the eastern part, the gas production is from depths of 2,000 feet.

The North Dakota petroleum potential is principally in the Williston Basin. This is an oil bearing basin with production at depths from 6,000 to 11,000 feet. The gas producton from the Williston Basin is 99 percent casinghead gas.

Reserves, production and consumption.—The Rocky Mountain gas reserves and production account for slightly more than 5 percent of the lower 48 United States gas reserves and production. More than 4.5 percent of the national jurisdictional sales to pipeline companies, are attributable to the Rocky Mountain producers. During 1970, the reserves, production and interstate sales volumes for the continental United States and the Rocky Mountain area were as follows in thousand cubic feet at 14.73 lb/in²a.

	United States	Rocky Mountain area	Percent
Proved recoverable reserves:			
Per AGA	[1] 259,615,657	[1] 17,038,570	6.56
Per FPC Form 15	173,556,105	[2] 19,840,880	11.43
Production volumes:			
Per AGA	[1] 21,815,604	1,103,043	5.06
Per FPC Form 15	14,091,783	847,638	6.02
Sales volumes:			
Per FPC Form 2	[1] 13,671,951	[1] 636,519	4.58

[1] Excludes Alaska.
[2] Preliminary figures. Includes some intrastate sales.
[3] For explanation of differences between AGA and Form 15 data, see 46 FPC 68, 78, footnote 7.

The AGA reserve estimates (total and nonassociated) for years 1956 through 1970, and the form 15 reserve estimates for years 1963 through 1970 are shown in appendix C for the entire Rocky Mountain area and for the constituent subareas.

The reserves in the Rocky Mountain area declined noticeably between 1956 and 1962 principally because of downward revisions by the AGA in the San Juan subareas, and have declined somewhat since that time. In the Uinta-Green River and the Montana-Dakota subareas, between 1956 and 1970, the reserve estimates were trended slightly upward, but were trended downward in the remaining four subareas. Consequently, the San Juan and Uinta-Green River subareas contain the bulk of the Rocky Mountain nonassociated proven reserves estimated at the present time. As of 1970, the reserves in the Colorado-Julesburg and the Montana-Wyoming subareas are also of predominately nonassociated gas.

The AGA production volumes (total and nonassociated) for years 1956 through 1970, and the form 15 production volumes for years 1963 through 1970 show that since 1960, production has trended upward in the overall Rocky Mountain area. However, in the Colorado-Julesburg and Aneth subareas the production trend has been downward.

Since 1956, the estimated reserves to production (RP) ratios, derived from total AGA reserve estimates, and actual production volumes, for the Rocky Mountain area as a whole, and for the six subareas have been as follows:

Year	Rocky Mountains	Aneth	San Juan	Uinta Green	Colorado-Julesburg	Montana-Wyoming	Montana-Dakota
1956	46.7	147.4	78.5	36.0	9.4	20.1	23.6
1957	34.3	201.3	47.4	21.6	10.4	20.0	29.3
1958	36.9	27.0	52.1	23.6	9.3	23.5	38.4
1959	29.1	18.6	38.2	21.5	9.2	19.0	42.0
1960	24.5	16.4	27.7	21.7	9.2	21.8	32.6
1961	23.6	13.6	28.3	20.1	8.7	22.9	26.5
1962	24.5	9.7	29.2	22.9	10.7	19.1	29.1
1963	25.0	7.4	30.8	22.4	9.5	19.2	28.7
1964	20.5	8.2	22.8	19.4	8.5	15.7	26.7
1965	18.7	9.6	21.0	18.4	7.3	12.1	24.4
1966	16.5	10.0	18.2	15.8	7.0	11.6	21.9
1967	17.1	8.1	18.5	16.8	6.7	13.5	21.4
1968	15.6	10.0	15.9	16.7	7.6	11.9	20.7
1969	15.3	9.2	16.2	15.6	8.3	13.3	22.3
1970	15.4	8.8	16.0	15.6	11.9	11.6	23.0

The AGA reserve estimates are based upon conventional recovery methods and do not take into account the additional reserves that might be made available through nuclear fracturing of tight reservoirs. The U.S. Bureau of Mines has estimated that nuclear stimulation techniques could yield as much as 317 trillion cubic feet of gas in the Piceance, Uinta, Green River, and San Juan Basins. The first application of nuclear explosive to test the use of nuclear stimulation in these low permeability reservoirs was in Project "Gas buggy" on December 10, 1967. The second test was on September 10, 1969. Feasibility studies have been made for projected future nuclear explosive tests, but the economics of nuclear fracturing, timing of gas availability, radiation hazards, public acceptance and many other problems attendant to nuclear stimulation of gas reservoirs have yet to be resolved.

Lease situation.—In the Rocky Mountain area much of the land is owned or controlled by the Federal Government (owned outright or controlled as "Indian Lands") and by State governments. The five leading gas producing States of the Rocky Mountain area (New Mexico, Wyoming, Colorado, Utah, and Montana) consist of 352.6 million acres. Of this total, on January 1, 1964, 160 million acres or 45.4 percent were Federal and "Indian Lands", and 26.8 million acres or 7.6 percent were State lands. At the end of 1970, there were 136.1 million acres under lease of which 54 million acres were Federal and "Indian Lands". In the State of Wyoming, 59.9 percent of the land under lease is owned or controlled by the Federal Government.

Because of the land ownership, the leasing policies of the Federal and State Governments, with respect to lease availability, royalty levels, bonuses and rentals, have an important effect on exploratory activities in the Rocky Mountain area.

Drilling activities.—From 1956 through 1970, most of the exploratory wells drilled in the Rocky Mountain area were in Colorado, Wyoming, and Utah. In western New Mexico (San Juan Basin), 13, 27, and 25 exploratory wells were drilled in 1958, 1959, and 1960, respectively, but only 13 exploratory wells have been drilled since 1960. In the entire Rocky Mountain area, the number of exploratory gas wells drilled and related footage has declined substantially since 1962. The downward trend in Rocky Mountain exploratory drilling has been more severe than has been the case nationally.

From 1958 through 1970 most of the developmental gas wells were drilled in the Rocky Mountain area in western New Mexico (San Juan Basin). In the years following 1962, there has been a decline in the number of developmental gas wells drilled in the Rocky Mountain area. During this period, there has also been a downward trend in the percentages that Rocky Mountain developmental gas well and footage bear to the national totals.

In all of the Rocky Mountain States, there were only 48 exploratory gas wells drilled in 1970 and only 258 developmental gas wells. The exploratory gas wells constituted 10 percent of the U.S. total.

An important indicator of exploratory results in an area are the success ratios in exploratory well drilling. Examination of success ratios for the Rocky Mountain area indicated that considerably fewer gas and oil wells are completed and more dry holes are drilled as compared to the national average. For example, of the exploratory wells drilled in 1970, in the Rocky Mountain area, 2.4 percent were gas wells, 7.3 percent were oil wells, and 90.3 percent were dry holes. By comparison, of the exploratory wells drilled nationally, 6.2 percent were gas wells, 10.3 percent were oil wells, and 83.5 percent were dry holes. Stated differently, if there had been 100 exploratory wells drilled in 1970, there would have been 9.7 successful wells in the Rocky Mountain area compared to 16.5 successful wells nationally.

Field Purchases and Sales of Natural Gas

Interstate pipeline purchases.—Eleven interstate pipelines purchase gas in the Rocky Mountain region. Five of the companies are classified by the Commission as pipeline-gatherers and six are classified as transmission pipelines. The pipeline-gatherers purchase gas from producers and resell the gas to the transmission pipelines. The largest transmission purchaser during 1970 was El Paso Natural Gas Co. (386.1 million M ft^3), followed by Montana-Dakota Utilities Co. (59.6 million M ft^3), Colorado Interstate Gas Co. (46.0 million M ft^3), Mountain Fuel Supply Co. (45.2 million M ft^3), Kansas Nebraska Natural Gas Co., Inc. (30.5 million M ft^3), and Panhadle Eastern Pipe Line Co. Of the pipeline-gatherers, the largest purchase was Cascade Natural Gas Corp. which bought 12.3 million M ft^3.

During 1970, nine pipeline companies purchased 586.6 million M ft^3. Most of the gas was purchased in the San Juan subarea (294.1 million M ft^3), Uinta-Green River subarea (184.7 million M ft^3), and the Montana-Wyoming subarea (73.7 million M ft^3). El Paso is the only pipeline purchaser of gas in the San Juan subarea. There are six purchasers of gas in the Uinta-Green Valley subarea. Of these, the pipeline-gatherers (Cascade, Grand Valley and Western Transmission) resell all of the gas they buy to the transmission pipelines (Mountain Fuel, El Paso and Colorado Interstate, respectively). In the Colorado-Julesburg subarea, Baca Gas Gathering, Colorado-Interstate and Kansas Nebraska purchase gas. Baca, a pipeline-gatherer, purchases gas from the producers in the southeast corner of Colorado, transports such gas into Morton County, Kans., and there resells to Panhandle Eastern Pipe Line Co. In 1970, Kansas Nebraska, Montana-Dakota Utilities and Colorado Interstate were the only purchasers in the Montana-Wyoming subarea. Panhandle Eastern and McCulloch Interstate have now entered this subarea. Montana-Dakota Utilities was the sole purchaser in the Montana-Dakota subarea, but Northern Natural has now entered this subarea; and El Paso is the sole purchaser in the Aneth subarea and in Apache County, Ariz.

Producer sales.—The pattern of independent producer sales in the Rocky Mountain area is that of a mixture of large, average, and small volume sales by both large and small producers to interstate pipelines, and sales to the pipeline-gatherers discussed above. As of December 31, 1969, there were 1,418 rate schedules on file for sales in the Rocky Mountain area with 1,415 rate schedules covering sales to interstate pipelines and only three rate schedules covering sales to nonpipeline buyers. Of the 1,418 rate schedules on file, 586 covered sales by large producers and 832 covered sales by small producers.

The volumes of gas sold to interstate pipelines during 1969 under the Rocky Mountain rate schedules, categorized by size intervals, are shown in the following tabulation:

Sales volume interval (Mcf)	Number of rate schedules	Total sales volumes (M ft³ at 14.73 lb/in²a)	Volume percent	Average volume per rate schedule (M ft³ at 14.73 lb/in²a)
Under 100,000	1,081	68,749,743	11.5	63,598
100,000–1 million	225	84,065,596	14.1	373,625
1–2 million	46	64,767,389	10.8	1,407,986
2–5 million	38	120,779,932	20.2	3,178,419
5–10 million	14	95,285,344	15.9	6,806,096
Over 10 million	11	164,361,389	27.5	14,941,944
Total	1,415	598,009,343	100.0	422,621

Of the 598.0 million M ft³ of gas sold during 1969, 495.8 million M ft³ or 83 percent of the total was sold by large producers and 102.2 million M ft³ or 17 percent of the total was sold by small producers. On a comparable basis, nationally the large producers account for 84 percent of interstate sales.

Intrastate sales.—In the Rocky Mountain area, about 75 percent of the gas is sold interstate, and about 25 percent is used intrastate. Comparable national percentages are about 66 percent interstate and 34 percent intrastate. The intrastate gas use includes intrastate sales, gas used by the producers, and gas lost, flared, and unaccounted for during 1969. The percentage of intrastate gas used in the six subareas varies from a low of 11.6 percent in the Uinta-Green River subarea to a high of 71.9 percent in the Montana-Dakota subarea.

The principal intrastate buyers of gas from producers are Montana Power Co. in Montana, Colorado Public Service Co. in Colorado, Southern Union Gas Co. in New Mexico, and Northern Utilities, Inc., in Wyoming.

Underground storage.—At the end of 1970, there were 16 underground storage fields in the Rocky Mountain area, fairly evenly distributed through the various subareas. Seven of these were operated by the interstate pipelines, Colorado Interstate Gas (1), Kansas-Nebraska (2), Montana-Dakota Utilities (3), and Mountain Fuel Supply (1). The remaining nine fields were operated by the intrastate buyers, Montana Power (5), Public Service of Colorado (1), Northern Gas Co. (1), Western Slope Gas Co. (1), and Northern Natural Gas Co. (Peoples Natural Gas Division) (1). There has been a steady upward trend in capacity, gas in storage, and working gas. At the end of 1970, storage capacity, gas in storage and working gas amounted to 325, 250, and 165 million M ft³, respectively.

Quality and Delivery Conditions of Produced Gas

Type of gas.—Most of the gas production in the Rocky Mountain area is of the nonassociated type although the situation varies in the different subareas. Nonassociated gas production in the Rocky Mountain area and constituent subareas during the year 1970 were the following percentages of total production: 81.2 percent in the Rocky Mountain area; 97.8 percent in the San Juan subarea; 91.3 percent in the Uinta-Green River subarea; 55 percent in the Colorado-Julesburg subarea; 44.1 percent in the Montana-Wyoming subarea; 27.2 percent in the Montana-Dakota subarea; and 10.8 percent in the Aneth subarea.

Processing plants.—At the end of 1970 there were 66 gas processing plants in the Rocky Mountain area, of which 46 were producer operated and 20 were pipeline operated. The pipeline operated plants are the larger plants and represent about 69 percent of the area plant capacity. About 41 percent of the overall capacity is concentrated in the San Juan Basin.

Of the 586.5 million M ft³ of gas purchased by interstate pipelines during 1970, 76.8 million M ft³ or 13.1 percent of the total was residue gas delivered at the tailgates of the producer plants.

Water content.—In the Rocky Mountain area, natural gas is generally delivered to the pipeline buyers in a saturated state. Consequently, most of the gas must be dehydrated by the pipeline buyers before mainline transmission.

Inert gases.—Inert gases do not present a major problem in the Rocky Mountain area. However, most of the gas produced in the Aneth subarea and in Apache County, Ariz., is sour and must be treated for the removal of hydrogen sulfide and carbon dioxide.

About one-half of the Rocky Mountain rate schedules contain conventional purity clauses. Additionally, except for contracts in the Aneth subarea, most contracts provide for maximum limits of total sulfur and hydrogen sulfide.

Delivery pressure.—In the San Juan Basin, the Pictured Cliff's gas is currently delivered at 100–180 lb/in²g and the deeper Mesa Verde and Dakota gas is delivered at pressures ranging up to 400 lb/in²g. El Paso and Southern Union Gathering operated separate gathering systems in this subarea to accommodate the different pressures. Delivery pressures are generally low in the Colorado-Julesburg and the Montana-Dakota subareas (less than 200 lb/in²g) because of shallow depths. In the Uinta-Green River subarea, gas in produced from deeper formations and delivery pressures tend to be high (up to 900 lb/in²g). The same is true of the deeper formations which produce gas-well gas in the Montana-Wyoming subarea, although casing-head gas is also produced in significant quantities in this subarea and it tends to be of low pressure.

Btu content.—The heating value of gas sold to interstate pipelines in the Rocky Mountain area ranges generally between 1,050 and 1,100 Btu/ft³. The only relatively low average Btu content for wellhead gas is in the Montana-Dakota subarea (958 Btu/ft³) although this is offset by large volumes of higher Btu residue gas (1,050 Btu/ft³) derived from casing-head gas produced in the Williston Basin so that the weighted average for all gas in the Montana-Dakota subarea is 1,049 Btu/ft³.

About 75 percent of the Rock Mountain contracts specify a minimum Btu level. This level falls between a low of 700 Btu to a high of 1,050 Btu/ft³. Downward price adjustments occur in about 25 percent of the contracts with around one-half of these adjustments applicable to gas delivered below 1,000 Btu/ft³. Btu adjustments, however, are not generally provided for in the Rocky Mountain area.

Delivery point.—The customary delivery point in the Rocky Mountain area appears to be at the wellhead. During 1970, 81.3 percent of the gas purchased from the producers by interstate pipelines was delivered at the wellhead, 5.6 percent was delivered at a central point, and 13.1 percent was delivered at plant tailgates.

There are some 14 producer-operated plants from which jurisdictional deliveries are made at the tailgate to pipeline buyers. Only one of these involves a rate which includes a gathering charge, in the amount of 1 c/M ft³. A number of contracts in the Rocky Mountain area give the producer an option to process. Some recent contracts provide that if this right is exercised, the buyer shall pay an additional amount at least equal to the cost of gathering and delivering the gas to the processing plant. There are about 75 contracts in the Rocky Mountain area with deliveries specified at a central point.

Average unit revenues.—The average unit revenues obtained by independent producers for gas sold to pipeline companies in years 1964, 1966, 1968, 1969 and 1970 are shown in schedule No. 16 of exhibit No. 1 of staff's initial response. The average unit revenue during 1970 was 15.10 c/M ft³ in the entire Rocky Mountain area, with a high of 17.62 c/M ft³ in the Montana-Dakota subarea (due to the weight of large sales from the Tioga, North Tioga, and Lignite plants in the Williston basin at rates between 16.0 and 18.0 c/M ft³) and a low of 11.35 c/M ft³ in the Colorado-Julesburg subarea.

Costs

In the notice and order of July 15, 1971, we ordered each respondent to file its flowing gas costs and operating data on an individual company 1969 test year basis. We did so with full knowledge that we have on occasion commented upon the imprecision of cost calculations, and that such imprecision tends to greater confusion when judgment factors are necessarily applied to the allocation of such costs. We have noted particularly that utilization of a test year cost of service is a doctrine borrowed from conventional utility regulation as a starting point in computing costs. Thus, in directing that 1969 test year data be filed, and utilized by the parties, we did not intend to use that "test" year as a costing model in the conventional utility method which was designed, after all, to fix rates for an individual company on a company-by-company basis.

To the contrary, we intended, and we here bind ourselves to follow the mandate of *Austral Oil Co., et al.* v. *F.P.C.*, 428 F.

2d 407 (CA5, 1970), wherein we were encouraged to consider noncost factors in determining producer rates. We would be understood, then, to analyze historic costs only as one factor in determining a just and reasonable rate level for Rocky Mountain.

Flowing Gas Costs

In the responses to the notice and order of July 15, 1971, filed on or before November 12, 1971, cost data were filed by the large producers for year 1969. Thirty-nine large producers reported 1969 gas production in the Rocky Mountain area consisting of 347,875,752 M ft³ on gas well and condensate leases, 80,671,451 M ft³ on oil casinghead leases, and 42,103,345 M ft³ on combination leases, all at 14.73 lb/in². If adjusted upward to include an assumed one-eighth royalty interest, the total production reported by the large producers constitutes approximately 47.9 percent of the total 1969 area production. The individual company cost data were composited by staff and filed as exhibit No. 2, and a copy thereof is attached as appendix D.

The 39 producers and their gas volumes produced on gas well and condensate leases represent 43.7 percent of the total 1969 nonassociated gas production in the Rocky Mountain area. In the subareas, the percentages vary from a low of 20.2 percent in the Aneth subarea, to a high of 80.8 percent in the Montana-Wyoming subarea.

Two flowing gas cost analyses were made for the entire Rocky Mountain area utilizing all of the data which had been incorporated herein and submitted by the parties. An Amerada Hess, et al., study was submitted, which was adopted in whole or in part by other respondents (hereinafter referred to as the "Auten Study"), and the staff presented a cost study.

These two studies have little difference in methodology and result. The Auten Study reflects average flowing gas costs to be 24.23 c/M ft³ at 14.73 lb/in² in 1969, while Staff's study reflects an average Rocky Mountain area unit cost of 21.28 c/M ft³ in 1969.

Staff's study improperly excluded the costs of Belco Petroleum Corp., a producer which during the test year 1969 delivered over 33 million M ft³ from the Rocky Mountain area to the interstate market. Staff concedes that inclusion of Belco's data raises the staff unit cost to 21.78 c/M ft³.

Secondly, staff also excluded the cost data submitted by Chevron Oil Company—Western Division, because, it states, Chevron did not report production volumes with the dollar costs it incurred. Staff did not challenge the incurrence of the costs by Chevron. However, the purpose in eliciting the data from respondents was to receive information concerning the area as a whole. The exclusion of Chevron's costs because no particular production could be assigned to such costs might be proper if a determination were being made on an individual company basis, but we do not think it proper in an area rate proceeding. Staff states that inclusion of the Chevron cost data in its study would only lessen its difference with the Auten study by only 0.03c/M ft³ (staff reply, app. A). Nevertheless, we find such costs should have been included. The result, of course, is to revise staff's study to 21.81c/M ft³.

The Auten study utilized a 16 percent rate of return on flowing gas costs, whereas the Staff utilized a 15 percent rate of return. No party to the proceeding introduced a rate of return witness, testimony or evidence. In opinion No. 546, we stated: (40 FPC, at 601.)

> [The Examiner] concluded that the same rate of return should be allowed for flowing gas as for new gas. We agree * * *.

Consequently, we believe that more than "illustrative" reliance should be placed upon the use of the 15 percent rate of return we have found to be proper in order No. 435, mimeo. See also opinion Nos. 595, para. 70 (mimeo) and 598, para. 124 (mimeo). We incorporate by reference our discussions in those orders and opinions regarding rate of return and heve find a rate of return of approximately 15 percent to be within a zone of reasonableness. This finding requires an adjustment of .54 cent in the Auten Study.

With one important exception—that dealing with calculation of exploration and development costs—the remaining differences between Staff's cost study (21.81cM ft³ after adjustment for the Belco and Chevron data) and the Auten cost study (23.69c/M ft³ after adjustment to a 15 percent rate of return) demonstrate full well the imprecision of costing methodology. For us to attempt to reconcile the two studies to a fraction of a cent would lend the appearance of precision and certainty where none is possible. Accordingly, we conclude that the record before us, without substantial dispute, reflects that, on an historic cost basis, the average unit cost of gas produced in the Rocky Mountain area, during 1969, was in the range of 21.8c/M ft³ to 23.7c/M ft³.

Commission Objectives

We are vitally concerned with the adequacy and reliability of gas supply nationally; we are no less concerned with the supply-demand imbalance in the Rocky Mountain area.

Natural gas consumption and production have increasingly assumed a dominant role in the United States energy mix. By 1970, natural gas accounted for 32.5 percent of energy consumption and 38.2 percent of energy production in our country. By 1985, energy demand in the United States will virtually double the 1970 consumption level, while gas demand in 1985 is projected to be about 38 Tft³, compared with 22.6 Tft³ consumed in 1970. The Future Requirements Committee has estimated that by 1975, only 82 percent of the gas requirements of region 8 (Colorado, Montana, Utah and Wyoming) will be met.

A major impetus to gas demand continues to be increasingly strict air pollution abatement control throughout the country. According to the Environmental Protection Agency program, by 1975 many U.S. markets will be limited to 0.3 percent sulfur by weight for residual oil and 0.7 percent sulfur for bituminous coal, substantially below current levels. In contrast, the sulfur level content of gas is nil.

Most of our current gas supplies are produced in the United States. However, adverse trends in new reserves indicate that consumer demands will not be met by domestic supplies, absent a reversal of the trend towards decreased exploration and development. Over the past 4 years, reserves additions have amounted to only one-half of the production of natural gas in the U.S. mainland. The reserve-production ratio is at a historic low of 11.9 to 1.

Due to these deteriorating supply trends, a shortage of natural gas of severe dimensions has developed, and a worsening shortage is projected for the United States. Our staff estimates gas shortages amounting to 21 percent of demand by 1975 and 30 percent by 1985, after full allowance for supplemental supplies (e.g., Alaskan gas, natural gas imports, and synthetic gas).

The current supply-demand imbalance has been manifested by curtailments of service to customers. In the past, when gas supplies were readily available, many commercial and industrial enterprises took advantage of the rates associated with interruptible service without being greatly inconvenienced by interruptions; now, however, they find themselves being curtailed with increasing frequency and for longer periods of time. An even greater consequence of the present gas shortage is the inability of several pipeline companies to meet their contractual obligations to firm customers. Firm requirement deficiencies reported to the Federal Power Commission increased from 62 billion cubic feet in the 1970–71 winter season (Nov.–Mar.) to 236 billion cubic feet in the 1971–72 winter. Projected firm deficiencies for the 1972–73 heating season are expected to total approximately 540 billion cubic feet, equivalent to about 2½ percent of the gas consumed in the lower 48 States in 1971.

The Rocky Mountain area, which accounted for 5.1 percent of U.S. mainland production in 1970 is a potential source of natural gas to aid in alleviatng the national natural gas shortage. Gas production in the Rocky Mountain area, after a strong growth from 1956 to 1965, has been static through 1970 because of adverse supply trends combined with declining deliverability. Reserve additions have been less than production since 1962, and total proved reserves have declined each year. Gas well completions declined in the Rocky Mountain area from 637 completions in 1961 to 264 completions in 1970.

In 1970, Rocky Mountain gas was consumed in four major market regions of the United States—the Pacific Southwest, the Pacific Northwest, the Northern Plains, and the Rocky Mountain

market regions. Shortages in these regions indicate the general need for greater volumes of Rock Mountain production. In order to just continue providing its share of demands in markets currently served, Rocky Mountain production must increase 27 percent by 1975.

The Potential Gas Committee estimates that 72 T ft³ of gas remains to be discovered in its area H, comprising most of the Rocky Mountain area. Northwestern New Mexico is included in its area I where an additional 11 T ft³ of gas are estimated to be awaiting discovery, making a total of 83 T ft³ in the entire region. The potential for discovery and development of large gas reserves in the Rocky Mountain region is, therefore, significant.

For example, in the Rocky Mountain area, there are 2,362 townships in which no test wells have been drilled in the areas presently producing, such as the San Juan Basin, and there are an additional nonproducing 1,823 townships in potential but not yet productive areas such as the Raton-Las Vegas Basin. Moreover, there are hundreds of townships in producing areas in which only one or two test wells have been drilled, many of which were too shallow to test the entire section.

During the period 1946–70, only a few more than 11,000 gas wells, both exploratory and development, were drilled in this immense area comprising portions of 7 States and over 400,000 square miles, an average of about 440 gas wells per year. In comparison, during the same period, over 9,000 such gas wells were drilled in Oklahoma alone, and over 22,000 in Texas. If the Rocky Mountain region's vast undiscovered gas potential is to be properly exploited, the drilling rate must be increased substantially.

Over the past 5 years, the finding-to-production ratio in the Rocky Mountain area has been 0.72, i.e., new supplies have amounted to only 72 percent of the quantities produced over the same period. Just to replace the reserves being produced requires an increase in findings by 40 percent. In short, if the gas supply potential which exists in this area is to be realized, a greatly expanded exploration effort is required. This is our basic objective.

Rate Levels and Rate Design

We herein adopt three major actions designed to achieve the objective outlined above. For the reasons hereinafter set forth, we find and conclude that:

1. Vintaging of price by contract date discourages current exploration and development efforts, just and reasonable rates for flowing gas, based on historic costs, should not apply to gas production which will result from future exploration and development efforts.

2. For gas sold for resale in interstate commerce from lands situated in the Rocky Mountain area, which gas is sold under contracts dated prior to October 1, 1968, and which is produced from wells commenced on or before December 31, 1972, the just and reasonable rate for 1,000 British thermal units gas is 24 c/M ft³, at 14.73 lb/in²a, exclusive of state production taxes.

3. For gas sold for resale in interstate commerce from lands situated in the Rocky Mountain area, the minimum rate for 1,000 British thermal units gas is 15 c/M ft³ at 14.73 lb/in²a and 60° F, including all additive charges and adjustments.

Vintaging by Well Commencement Date

In opinion 639, Area Rates for the Appalachian and Illinois Basin areas, docket No. R–371, 48 FPC ——, issued December 12, 1972, we stated our conviction that vintaging by contract date is an anachronism which should be eliminated. We reaffirm that view.

Under traditional Commission area rate methodology, two rates have been set for each producing area, one for "old" or "flowing" gas (based principally on historic test year costs) and another for "new" gas (based on current costs and designed to provide incentives for future development).[11] By the conventional approach, the line of demarcation has been an arbitrarily selected date, as was the date of October 1, 1968, which was utilized in opinion 546 as the beginning of "future" sales (opinion 546 was issued Sept. 25, 1968). This date was then used in later opinions for reasons of administrative convenience.[12]

Whatever the merits of contract vintaging when adopted, we do not believe this concept responds to the present need for increased exploration and development. Exploration and development undertaken at current cost levels is retarded if the risk-taker knows that any gas found will be priced on the basis of historic, noncurrent costs. Similarly, the incentive factors applied in "new" gas ratemaking are totally lost as to undeveloped acreage committed under old contracts.

Rates based on historic costs should apply to that gas brought to market at the historic cost levels relied upon in setting the rates. From this record, we know that historic costs, based on a 1969 test year, are in the range of 21.81 c/M ft³—23.69c/M ft³. Current costs, computed by Southern Louisiana and Texas Gulf Coast methodology, are shown in this record to be in the range of 29—38.5c/M ft³. It is unrealistic to assume that exploration and development of the vast areas comprising presently dedicated acreage in Rocky Mountain will occur in 1973 if we impose rates based solely upon 1969 costs.

We believe it now clear that the date of contract has nothing to do with the cost of drilling a new well or the incentive required to elicit the same. Obviously, a well drilled today on acreage dedicated to a 1960 contract cannot be drilled for 1960 costs.

Inherent in the Commission's two-price system is the concept that the differential between the price established for flowing gas and that offered for new gas, is intended as an incentive for the drilling of new wells. Thus, if the incentive envisioned by this concept is to be of any real effect in an area such as Rocky Mountain where virtually all of the undeveloped known productive acreage is under vintage contracts, the Commission must abandon its "new contract—new price" concept, and go to a "new well—new price" approach. Otherwise, no real incentive will be supplied and no substantial number of new wells will be drilled.

The record before us was constructed on a 1969 test year basis. We apply that record and here determine just and reasonable rate levels for gas produced from wells commenced on or before December 31, 1972. We choose commencement date rather than completion date for the reason that a well commencement date can be ascertained from State regulatory records and is not subject to dispute or interpretation; "completion date" is subject to interpretation, and can be long removed from the date that risk capital was committed to the venture.

Just and Reasonable Rate Level

We have heretofore explored the historic cost of flowing gas in the Rocky Mountain area, and determined that during 1969, such costs fall in the range of 21.81–23.69c/M ft³ at 14.73 lb/in²a, exclusive of State production taxes and calculated on the basis of a 15-percent rate of return. Staff's cost study is predicated upon an historic exploration and development cost of 6.74c/M ft³, while the Auten study suggest "normalization" of exploration and development expenses, thereby adding an increment of 1.4c/M ft³ to flowing gas "costs" to spur exploration and development efforts.

The Auten study correctly identifies a problem—that exploration and development has not kept pace with production levels—but is in error, we think, in suggesting that we adjust "costs" to solve that problem. We approach the problem as one of rate design, peculiarly within the Austral opinion's signification of noncost factors which the Commission must consider in setting rates.

We have stated the objectives of this rate order, placing principal emphasis on the need to secure additional development of Rocky Mountain. That objective cannot be attained if there is inadequate capital formation to fund expanded drilling and production activity. Austral identified the impact of rates on adequate financing as a "crucial issue" in responsible rate regulation (428 F. 2d at 435). We agree.

The "flowing" gas price which we must determine will play a major role in providing or retarding the cash flow needed to make available capital for investment in gas exploration and development in the Rocky Mountain area. We have heretofore recognized that revenues from existing sales play an important role in providing the funds for a heightened

[11] Opinion 468 Permian I, at pp. 28–35.

[12] See opinion 595, Texas Gulf Coast; opinion 598, Southern Louisiana; and opinion 607, Other Southwest.

exploration effort (opinion 598, pp. 40, 44, and 60).

We determine that the just and reasonable rate for flowing gas in Rocky Mountain is 24c/M ft³ at 14.73 lb/in²a, exclusive of state production taxes. We identify approximately 22.5c/M ft³ as cost based, and approximately 1.5c/M ft³ as attributable to noncost factors, such as the need for adequate internally generated capital to support the expanded development effort we seek and the need to overcome the projected gas shortfall.

Minimum Rates

Our notice in this docket sought comment on the desirability of setting minimum rates for the Rocky Mountain area. In its reply, filed December 9, 1971, the staff first addressed itself to the issue of minimum rates. No other party of the proceeding addressed itself to this issue.

This Commission is "without authority to abrogate the existing contract prices unless it first concluded that they 'adversely affect the public interst'." *Permian Basin Area Rate Cases*, 390 U.S. 747, 820 (1968). The Natural Gas Act authorizes abrogation of existing contracts "only in circumstances of unequivocal public necessity." Ibid., p. 822. Thus, to establish a minimum rate, as Staff proposes, for the Rocky Mountain area we must find, inter alia, that existing contract rates below such a minimum would "prevent or retard further exploration and thereby decrease possible discovery of gas reserves which will be needed by consumers." *Area Rate Proceedings*, docket No. AR61–1, et al., 34 FPC 159, 232.

We have previously discussed the acute natural gas shortage existing in the country today, and the ever increasing demand for increased supplies of natural gas in the future. And, we here noted that less than 15 percent of the Rocky Mountain area potential has been explored. The following gas cost studies before us reflect that a rate of 14.94 c/M ft³ will cover costs but provide no return at all to the producer. It is unquestioned in this record that, as of 1970, average revenues for all deliveries to interstate pipelines in the Rocky Mountain area were only 15.1 c/M ft³. It is thus apparent that the present rate levels in Rocky Mountain are a principal cause of declining exploration and development, simply because capital produced from flowing gas sales is sufficient to do little more than recover costs. Thus, as a consequence of our minimum rates ordered, increased exploration should occur.

We must take note also that producer bargaining in Rocky Mountain is less effective than elsewhere in the country and that the structure of the buyer segment could well have had a regressive impact upon exploration and development. El Paso is the sole interstate purchaser in the San Juan area, the Aneth subarea, and in Apache County, Ariz.; Montana-Dakota Utilities and Northern Natural are the sole purchasers in the Montana-Dakota subarea; only three transmission companies purchase in the Uinta-Green River subarea; and only two interstate pipelines purchase in the Colorado-Julesburg subarea.

We are not persuaded that time will correct the problem of the low rate levels prevalent in Rocky Mountain. From 1959 to 1969, average revenue for all deliveries of Rocky Mountain gas to interstate pipelines increased by only 1.2 cents from a level of 13.5 c/M ft³ to 14.7 cents. In contrast, since 1959, gas-well drilling costs have increased by 55 percent, wage levels in the oil and gas industry by 56 percent, and the general price level in the economy by 40 percent.

We note also that in the early 1950's, the contract prices in the San Juan area were roughly the same as for the Permian Basin. For the composite Rocky Mountain area, the contract prices differed but little from the average prices for the Southwest market as a whole. The differential between prices in the Rocky Mountain area and in other parts of the market widened thereafter. In the Southwest, gas prices increased through 1960 as the market became more competitive on the buying side. In the Rocky Mountain region, however, new-contract prices have been virtually unchanged for a period of 20 years. Over this period, there have been sharp increases in price levels in the economy, in the value of gas as a commodity, in the costs of alternate fuels, and in the costs of doing business.

Upon consideration of all these factors, we conclude that many existing contract rates are "so low as to adversely affect the public interest * * *." *F.P.C. v. Sierra Pacific Power Co.*, 350 U.S. 348, 355 (1956). We so find; and we establish 15 c/M ft³ at 14.73 lb/in²a as the minimum just and reasonable rate to be charged for the sale of natural gas in interstate commerce. Service at this level will permit all flowing gas in Rocky Mountain to generate funds for exploration and development.

The minimum rate here established is derived from the record evidence, hereinabove set forth in detail, which establishes the 1969 cost of flowing gas as falling in the range of 21.81 cents—23.69c/M ft³. From this we deduct all return components (totaling 9.28c/M ft³), to arrive at 12.53–14.41 cents, to which we add state severance and production taxes, which average .52c/M ft³ in Rocky Mountain, and arrive at a minimum cost range of 13.05 to 14.93 cents, exclusive of any return to the producer. Because of our concerns, previously stated, for inadequate capital formation and insufficient exploration in Rocky Mountain, we accept, for minimum rate purposes, the high cost range and, rounding off to the nearest tenth of a cent, we find 15c/M ft³ to be the minimum just and reasonable rate to be applied in Rocky Mountain.

From staff's study of the need for minimum rates in Rocky Mountain, as set forth in its reply of December 10, 1971, we find that our minimum rate order will have only minimal impact on the total revenues generated by Rocky Mountain gas sales. Establishment of a 15 cents minimum rate will add approximately $3.5 million to 1969 Rocky Mountain sales revenues of approximately $84 million.

As already noted, the minimum rate here established provides no return to the producer; this result, over time, could have a deleterious effect on the viability of the producing industry, and have a depressing effect on exploration and development efforts. We will, accordingly, continue to examine carefully those areas where there is a lack of effective buyer competition, and if further action with regard to minimum rates is necessary, we will not hesitate to take appropriate action.

The staff proposed that any minimum rate be made applicable to sales to transmission pipelines but not sales to pipeline-gatherers or producer-buyers. The reason advanced by staff is that to do otherwise might "unduly disturb the differentials between the rates at which gas is resold by such buyers", and therefore, minimum rates for sales to such buyers be considered only pursuant to petitions filed for special relief. The staff so recommended, and we so provided in our order No. 411, opinion and order establishing just and reasonable rates, docket No. R–371, 44 FPC 1112, 1127. Thereafter, more than 40 petitions for special relief were filed by small producers in the Appalachian Basin Area. Consequently, we believe it proper, and more orderly to apply the minimum just and reasonable rate to all interstate sales for resale, and to permit any gatherer-purchaser or producer-buyer adversely affected thereby to flow through any rate increase occasioned thereby in order to preserve an existing differential which is shown to be just and reasonable.

Rates for New Gas Sales

Just and reasonable rates for flowing gas, set, in large part, on historic cost data, shall apply only to gas sold from wells commenced on or before December 31, 1972.

All new gas—gas produced from wells commenced on and after January 1, 1973—should be given rate treatment based on current costs and current incentives, and this will be accomplished through docket No. R–389B, as hereinabove referred to.

We conclude that we cannot, and should not, set just and reasonable rates for new gas in this proceeding. This rulemaking was not noticed as a proceeding in which such a determination would be made, and the record before us is insufficient to support such a determination. While some of the respondents offered evidence on new gas costs, not all respondents did so, and we believe a fair reading of our notices and prior orders in this docket did not indicate the necessity for public comment on this issue of rates for new gas sales.

Even were the record sufficient, however, we would decline at this time to expand the area rate method of regulation by establishing a Rocky Mountain Area rate for new gas. In opinion 639, Appalachian-Illinois, we indicated our movement away from the area rate

concept and we remain of the views there expressed concerning the infirmities of the area rate mechanism as an appropriate vehicle for future rate regulation. In our notice of rulemaking issued in R–389B today, we make clear the pattern of future producer rate regulation.

The initial rate levels prescribed in order 435 for the Rocky Mountain Area will govern certification of sales of gas sold under contracts dated after October 1, 1968, which gas is produced from wells commenced after December 31, 1972. Gas sales from wells commenced on or after January 1, 1973, which sales are already certificated on a temporary or permanent basis, may be brought into rate conformity with the rate levels prescribed in order 435, if the underlying contract so permits, by appropriate rate increase filings under section 4(e) of the Natural Gas Act.

Order 435 imposed no moratorium on rate increase filings, and we impose none here.

REFUNDS

No party to the proceeding submitted a study of refunds, the amounts involved collected subject to refund, or an impact study of the effect of requiring refunds above any recommended rate. The staff recommends that refunds be made where sales were made, subject to refund, above the rate level prescribed by the Commission. Staff suggests that producers should be permitted to discharge any refund obligation by dedication of additional reserves in the same manner as provided in our recent decisions with respect to the Other Southwest Area, opinion No. 607–A (1972); Southern Louisiana, opinion Nos. 598 and 598A (1971); and Texas Gulf Coast, opinion Nos. 595 and 595A (1971). We judge that although in this proceeding, as in Other Southwest, the total amount of refunds will be small, we need additional information before disposing of the refund issue, and we will order the preparation and filing of refund reports.

The Commission further finds.—(1) The notice and opportunity to participate in this proceeding with respect to the matters presently before the Commission through the submission, in writing, of data, views, comments and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in section 553, title 5 of the U.S. Code. Since the amendment prescribed here does not prescribe an added duty or restriction, compliance with the effective date requirements of 5 U.S.C. 553(d) is unnecessary.

(2) The amendment of part 154, regulations under the Natural Gas Act, to add a new § 154.109(b), and the amendment of § 2.56 of the Commission's general policy and interpretations as herein prescribed, is necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the modifications to the amendments prescribed herein which were not included in the notice of the proceeding are of a minor nature, and are consistent with the prime purpose of the proposed rulemaking herein, further notice thereof is unnecessary.

(4) The rulemaking proceedings in docket Nos. R–389 and R–389A should remain open and in effect.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16 thereof (52 Stat. 822, 823, 824, 825 and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f and 717o) orders:

(A) Part 154 of the Commission's regulations under the Natural Gas Act, subchapter E, chapter I, title 18 of the Code of Federal regulations is amended by adding a new § 154.109b to read as follows:

§ 154.109b Area rates—Rocky Mountain Area.

(a) The Rocky Mountain Area consists of the following production subareas: Aneth Field Subarea—Includes that part of San Juan County, Utah, lying within T. 39 through 43 S., R. 18 through 26E. and T. 38 S., R. 20 and 21E.; and that part of Apache County, Arizona, lying within T. 41N., R. 28E., 29E., 30., and 31E.; San Juan Basin Subarea—Consists of San Juan, Rio Arriba, McKinley and Sandoval Counties, New Mexico; and Montezuma, La Plata, Archuleta, Mineral, Hinsdale, San Juan, Dolores, San Miguel, Ouray and Montrose Counties, Colorado; Uinta-Green River Basin Subarea—Includes Albany, Carbon, Sweetwater, Sublette, Lincoln and Uinta Counties, Wyoming; Summit, Daggett, Uinta, Duchesne, Wasatch, Carbon, Emergy and Grand Counties, Utah; and Mesa, Garfield, Rio Blanco, Moffat and Routt Counties, Colorado; Colorado-Juleburg Basin Subarea—Consists of the remaining Colorado counties; Plattee, Laramie and Goshen Counties, Wyoming; and Kimball, Cheyenne, Deuel, Garden, Morrill, Banner, Scotts Bluff, Sioux, Box Butte, Dawes and Sheridan Counties, Nebraska; Montana-Wyoming Subarea—Includes the remaining counties in Wyoming and Park, Sweet Grass, Stillwater, Carbon, Big Horn, Yellowstone, Treasure, Rosebud and Power River Counties, Montana; and Montana-Dakota Subarea—Consists of the entire State of North Dakota; Harding, Perkins and Butte Counties, South Dakota; and Glacier, Pondera, Teton, Cascade, Meagher, Wheatland, Golden Valley, Mussellshell, Garfield, Custer and Carter Counties, Montana, together with the remaining Montana counties lying north and east of the counties listed.

(b) No rate or charge made, demanded or received under a rate schedule filed pursuant to this part for gas produced in the Rocky Mountain area shall exceed the following rate measured at 14.73 lb/in²a and 60° F, but shall be subject to British thermal units adjustments below 1,000 Btu and above 1,050 Btu excluding State production or severance taxes or charges

24.0c/M ft³ for gas produced in the Rocky Mountain area and sold under contracts dated prior to October 1, 1968, and produced from wells commenced on or before December 31, 1972.

(c) A minimum rate for natural gas produced and sold in the Rocky Mountain area is 15c/M ft³ at 14.73 lb/in²a and 60° F, subject to British thermal units adjustments, below 1,000 Btu and above 1,050 Btu, including all additive charges and adjustments and State production taxes, and increases to such minimum rate filed after the date of this order will be granted notwithstanding contractual provisions to the contrary which are hereby modified pro tanto.

(B) Each producer respondent herein shall compute the difference each of them has charged and collected from its respective purchasers of natural gas, at the rate charged and collected subject to refund and the applicable just and reasonable rate determined herein, if any, with applicable interest, computed to the last day of the month preceding the date of issuance of this order, and each shall file, within 30 days of the date of issuance of this order a report of such refund moneys showing separately the principal and interest (with volumes sold, and the period covered) with the Commission and upon the purchaser of the natural gas. Within 20 days of receipt of said refund report, the puchaser shall file its concurrence or nonconcurrence therein, and if it does not concur it will set forth its reasons therefor.

(C) Each producer respondent shall retain the refund moneys computed in accordance with ordering paragraph (B) above pending further order of the Commission; if any one of them elects to commingle such refund moneys with its general assets and use them for its corporate purposes, it is authorized so to do after notice to the Commission; and it shall pay interest thereon at the rate of 7 percent per annum from the effective date of this order to the date on which they are to be paid over to the person or persons ultimately determined to be entitled thereto by a final order of the Commission. If any one of the aforenamed companies elects to deposit the retained refunds in an escrow account, it shall make such deposit and shall file, on or before the date of filing the refund report, an executed escrow agreement, or a cretificate attesting to the fact that it has executed such an agreement, in the form provided for by § 250.12 of part 250 of the regulations under the Natural Gas Act, 18 CFR part 250.

(D) Effective upon the issuance of this order, paragraph (a) of § 2.56, part 2—General Policy and Interpretations, Chapter I of title 18 of the Code of Federal Regulations, is amended by deleting the last paragraph thereof, and adding in lieu of the paragraph so deleted the following paragraph thereto.

§ 2.56 Area price levels for natural gas sales by independent producers.

(a) * * *

The initial rates at which sales of natural gas in the Rocky Mountain area are to be certificated, without refund obligations for

sales made under contracts dated after October 1, 1968, are set forth in table No. 1A and, subject to the additional requirements, restrictions, and authorizations provided in the orders issuing such certificates represent the area rate levels for the areas involved until such time as the Commission shall promulgate applicable just and reasonable rates in said area.

(E) Effective upon the issuance of this order, paragraphs (c) and (d) of § 2.56, part 2—General Policy and Interpretations, chapter I of title 18 of the Code of Federal Regulations are amended to strike therefrom all references to the Rocky Mountain area or any part thereof, and tables 2 and 3 are hereby modified accordingly. *Provided, however,* That nothing in this amendment of §§ 2.56 (c) and (d) shall operate to amend § 154.93 of the Commission's Regulations under the Natural Gas Act.

(F) The amendments provided for herein shall be effective as of the date of issuance of this order.

(G) The proceedings in docket Nos. R-389 and R-389A shall remain open for such other orders as the Commission may find appropriate.

(H) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-7625 Filed 4-19-73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart B—Statements of Policy and Interpretation Regarding Animal Drugs and Medicated Feeds

ANTIBIOTIC AND SULFONAMIDE DRUGS IN THE FEED OF ANIMALS

Some 380 responses were received to the proposal published in the FEDERAL REGISTER of February 1, 1972 (37 FR 2444), regarding the use of antibiotic and sulfonamide drugs in animal feeds. Views were received from individuals, livestock and poultry producers, producer associations, State, Federal, and university personnel, and drug and feed manufacturers. Of those responses expressing support for the proposed restriction, five offered grounds for the position taken, and of those opposed, 77 offered grounds; many views expressed were related to an interpretation of the data reviewed by the task force on the use of antibiotics in animal feeds. A review of the comments submitted reflected certain issues. These issues of concern, along with the responses of the Commissioner of Food and Drugs to them, are as follows:

1. It was stated that there existed considerable difference of opinion within the task force membership and that the task force was nearly equally divided on several major points. In spite of the various opinions expressed within the task force on various points of consideration, its members unanimously agreed to the report. All members concurred that reliable and appropriate research is needed to provide data pertinent to the conclusions of the task force. The minority reports have been evaluated in proper perspective and it is concluded that they do not provide an adequate basis on which to alter the findings of the task force.

2. It was stated that many of the antibacterial drugs have been in widespread use of approximately 20 years and in billions of animals as well as in countless studies serving to document their safety and effectiveness. Present data and experience with antibacterial drugs in animal feeds fail to satisfy the specific questions raised by the task force relating to the health of man and other animals. In addition to the task force's findings, the void of information has previously been elucidated by the National Academy of Sciences-National Research Council. Committee on Veterinary Drug Efficacy and more recently by the low-level antibacterial drug review completed by the Bureau of Veterinary Medicine. Whenever significant questions are raised about a potential or theoretical hazard, sound scientific data must be provided to resolve the issues.

3. Restricting the therapeutic uses of the antibacterial drugs in feeds to a prescription basis was questioned regarding its practicality and feasibility. The task force recommended and the Food and Drug Administration proposed that an antibacterial drug in animal feeds be restricted to prescription status only if the drug fails to satisfy the criteria dealing with human and animal safety and drug efficacy. Conversely an antibacterial drug which is confirmed to be safe and effective for its intended purpose at subtherapeutic levels will not become subject to the prescription requirement. Acknowledging that very potent drugs are involved, when data indicate hazards at low and intermediate use levels, then the proper course of action appears to be more stringent regulation of the products' use. Assuming that a drug is useful for specific clinical disease(s), it is appropriate to reserve the drug for high-level, short-term use following specific diagnosis of a disease. Restricting the drug to use under prescription requirements would insure the continued availability of a useful product while at the same time limiting the improper use of a product which has exhibited a safety hazard or has failed to show efficacy at subtherapeutic levels.

4. It was stated that administration of drugs to large numbers of individual animals by injection or oral dosage form is not practical and would result in an increase in the cost of production. Accordingly, consumer costs could be expected to increase for a smaller supply of lower quality meat, milk, and eggs. Implementation of the report of the task force would not necessarily preclude the use of antibacterial drugs in animal feed. It is expected that effective products would continue to be available and the drug industry is actively developing effective and safe new antibacterial drugs. The economic impact, if any, is difficult to quantitate. It appears that the implementation of the report would have a favorable long-term economic effect.

5. It was stated by several persons that the proposed time limits should be altered. These included individuals requesting that restrictions be immediately placed into effect, and those who stated that no time limits should be included. The Commissioner has concluded that there is sufficient proof of the safety and effectiveness of the drugs involved to justify continued approval conditioned upon the immediate undertaking of additional tests to confirm safety and effectiveness. This procedure is comparable to that set out in §§ 130.47 and 121.4000 (21 CFR 130.47 and 121.4000). Unless testing is undertaken, however, there is no acceptable basis for continued marketing.

6. Many comments were addressed to the question of the immediacy and seriousness of the human and animal health hazards. These comments ranged from personal opinions to lengthy interpretations of some of the published literature pertaining to potential health hazards. That the task force completely, thoroughly, and objectively reviewed these subjects is evidenced by the documentation reviewed by the task force. In addition, the task force included recognized experts on transferable drug resistance. No additional evidence or data were submitted which would justify a conclusion other than that arrived at by the task force regarding the question of health hazard.

7. One comment stated that it would appear to be illogical to restrict the subtherapeutic use of antibiotics in animal feeds and to continue to allow the reservoir of resistant bacteria, and bacteria which can transfer the resistance factor, to be maintained by therapeutic use of those same antibiotics in animals. It was stated that if there is a public health hazard from administration of low levels, then the same hazard would exist from administration of therapeutic levels. Antibacterial drugs used for therapeutic treatment of clinical disease produce a selection pressure which is high, of short duration, and has a high degree of universal bacterial susceptibility. The converse is true of subtherapeutic levels. The logical conclusion follows that the greatest potential hazard exists with the long-term use of an antibacterial drug at subtherapeutic levels.

8. There was comment that a quantitative guarantee for all low-level antibiotics should not be required in the absence of analytical methods of adequate sensitivity to guarantee their presence in the indicated amounts in feed. Further, it was commented that the variability of analytical results are a potential source of serious problems for industry and regulatory officials. The Commissioner recognizes that the current application of available analytical

procedures to animal feeds containing low levels of antibiotics does not provide a desirable level of precision. However, it is well known that this level of antibacterial drug is capable of selecting for transferable drug resistance determinants. The user should know the level of drug present in the feed that he purchases. The FDA concurs with this conclusion of the task force. In addition, it is recommended that improved analytical procedures be developed. Since this requirement will not be placed into effect until full implementation of the task force report, adequate time will be available for the development of improved methodology.

9. At least one food animal producer offered his own personal experience using subtherapeutic levels of antibacterial drugs in feed. He stated that his animals experienced a number of health problems when rations containing no antibacterial drugs were given. The purpose of the proposed studies is to evaluate the hazard as related to human and animal health as well as the effectiveness of antibacterial drugs for their intended use when considering benefit versus risk. Therefore, effectiveness for the intended purpose will be a major criterion for the continued use of any antibacterial drug intended for use in animal feeds.

The deliberations and actions of the FDA concerning the use of antibacterial drugs in animal feeds are only a part, and perhaps a small part, of the total picture of antibacterial use as it relates to public health. It is logical to assume that the direct use of antibacterial drugs in man has the potential for exerting considerably more impact on the health of man than the impact of antibacterial drug use in food animals. There has been a dramatic increase in the total use of antibacterial drugs in recent years. In 1960, the annual production of antibiotics in the United States was 4.16 million pounds of which 2.96 million pounds was used for therapeutic purposes in human and veterinary medicine and 1.20 million pounds in animal feed additives. Production had doubled by 1965. By 1970, the human and veterinary medical pharmaceutical use was 9.6 million pounds, a threefold increase over 1960, and the feed additive usage was 7.3 million pounds, a sixfold increase over 1960.

Since the continued effectiveness of antibacterial drugs depends in large measure on the extent to which they are reserved for appropriate use on susceptible organisms, and since the indiscriminate or inappropriate use of antibacterials is detrimental to the public health, it is in the national interest to determine with precision how antibiotics are being employed and what steps should be taken by the FDA and medical professions to promote the informed and most appropriate use of these agents. The FDA is presently increasing activities in the assessment of the use of these drugs in man and at the same time the FDA will continue to address the questions before it concerning use of antibacterial drugs in animal feeds.

The task force on the use of antibiotics in animal feeds concluded that the long-term use of subtherapeutic amounts of antibiotics in animal feeds may give rise to a potential (although not fully documented) human and animal health hazard. The task force pointed out, however, and other recognized experts who have been consulted generally agree, that a significant increase in the reservoir of salmonella organisms in food animals constitutes an increased risk to human health. A feed-use drug used on a continuing basis which significantly increases the numbers of salmonella organisma in the animal would logically affect the numbers of salmonella organisms on the animal-derived food products. Therefore, the Commissioner concludes that a significant increase in the salmonella organisms in animals would constitute an increased hazard to human health.

There is less agreement on the hazard to human health presented by other animal-source bacteria (e.g., coliforms). It is generally agreed that there are great difficulties involved in documenting the absence of risk or absolute safety from the potential hazard posed by the colonization and possible R-factor transfer in the human gastointestinal tract. An effort to assess this potential hazard will require many large-scale studies which will address this hazard as a concept. The possibility of proving the absolute lack of hazard under actual conditions of use is questionable. The probability of the use of an antibacterial drug in animal feed enhancing the pathogenicity of bacteria by linkage of toxin production to R-factor also will be difficult to determine. Nevertheless, the task force has raised these questions and the Commissioner concludes that these theoretical hazards exist and require further study if nontherapeutic use of these drugs in feed is to be continued.

The commercial animal and poultry production practices used in this country today, including the use of medication in feed administered to the entire herd or flock, have made it possible to effectively concentrate large numbers of animals into small areas without serious losses in production efficiency. From such concentration and intensified production, benefits accrue in terms of efficient land usage, labor savings, and more efficient conversion of animal feed to animal protein, thereby making a major contribution to the abundance of food from animals. The Commissioner acknowledges the benefit from such drugs, when properly used, for increased rate of gain, improved feed efficiency, and animal disease control. Immediate and total withdrawal of these drugs from animal feeds could seriously disrupt the quality and quantity of an important portion of our total human diet.

Because of the geographical proximity of the United States and Canada and the international commerce in animal drugs, animal feed, and food between the two countries, it is essential that policies and requirements on products such as these be uniform. An agreement has been reached which will allow for similar actions, based on similar timetables to be initiated by the Food and Drug Administration and the agency's counterpart in Canada, the Health Protection Branch. The two nations have also agreed to form a joint United States-Canada committee to review major questions which may arise in the course of evaluating study proposals submitted by drug sponsors.

The Commissioner has reviewed the information and conclusions in the report of the task force, the comments submitted in response to the proposal, the deliberations of a committee subsequently appointed by the National Academy of Sciences-National Research Council under the chairmanship of Maxwell Finland, M.D., to consider the same matter, conferences with Canadian Health officials, and other data and information available to him, in determining whether new evidence or tests, evaluated together with the evidence available when the new animal drug applications for these drugs were approved, shows that any or all of them are not shown to be safe for use under the conditions of use upon the basis of which the applications were approved, and thus should be withdrawn from use pursuant to section 512(e)(1)(B) of the act. The concept of "safety" as used in the act does not require complete certainty of the absolute harmlessness of a drug, but rather the reasonable certainty in the minds of competent scientists that it is not harmful, when balanced against the benefits to be obtained from the drug. Using these criteria, the Commissioner concludes, upon the basis of all of the evidence currently available, that these drugs have been shown to be safe under the conditions of use, within the meaning of that term as used in section 512 of the act, and thus that there is presently no basis for withdrawing any of these drugs solely on safety grounds under section 512(e) of the act.

The Commissioner recognizes that the task force report recommended withdrawal of the drugs by certain specific target dates. Those target dates are not adopted in the final regulation for two reasons. First, establishment of the testing requirements to be imposed with respect to these drugs has been far more complex than the task force realized, and therefore has taken far longer than initially contemplated. Second, in the absence of a finding of a lack of proof of safety, or failure to submit required reports, there is no legal basis for a decision arbitrarily to withdraw these drugs from the market. If the task force had found a lack of proof of safety of these drugs, withdrawal of approval would have been required immediately rather than permitting continued manufacture, absent a finding of a compelling medical justification for these products.

The Commissioner recognizes that difficult questions exist with respect to the benefit-risk analysis necessary in determining whether the safety evidence

is sufficient to approve or insufficient to justify continued approval of the safety of any drug. Questions about potential and theoretical hazard, of the nature raised with respect to the use of antibacterials in animal feed for growth promotion purposes, continually arise and obviously deserve serious consideration. Where these questions indicate a serious health hazard, withdrawal should immediately be ordered. Where, as here, only a potential or theoretical hazard is raised, which does not show that the drug is not shown to be safe, it is the opinion of the Commissioner that the proper way to proceed is to require the submission of appropriate records and reports pursuant to section 512(1) of the act, to facilitate a determination whether there is a ground for withdrawing approval of the drug in question under section 512(e) of the act. Failure to submit such required records and reports is itself a violation of the act, justifying withdrawal of approval of the drug for the manufacturer or distributor involved.

It would be chaotic, and is clearly not feasible, to withdraw approval of all food or drug substances merely because new questions have arisen, new testing is considered scientifically appropriate, or new studies raise issues that require further exploration. That is the situation involved here. The Commissioner has therefore concluded that, while there is insufficient evidence or questions to justify a finding that these drugs have not been shown to be safe, there is sufficient question to invoke the authority under section 512(1) fully to investigate these issues in order to obtain more definitive data to resolve them. The Commissioner has chosen the following course of action.

1. The antibacterial drugs commonly used in animal feed and which are recognized to cause transferable drug resistance and are commonly used to treat human and animal diseases include the tetracyclines, streptomycin, dihydrostreptomycin, the sulfonamides, and penicillin. The use of these drugs in feeds may also affect the reservoir of salmonella organisms in food animals. An assessment of the effect of subtherapeutic levels of these drugs in feed on the salmonella reservoir can be completed in a relatively short time. Therefore, continued marketing of products containing any of these named drugs will be dependent on completion of salmonella reservoir studies by no later than 1 year following the effective date of this order. A determination that the drug promotes a significant increase in the salmonella reservoir will be considered sufficient grounds for proceeding to withdrawal approval of that drug.

2. The approval for the use of antibiotic and sulfonamide drugs in animal feeds at subtherapeutic levels will be withdrawn, unless by no later than 2 years following the date of this order there has been submitted conclusive evidence demonstrating that no human or animal health hazard exists which can be attributed to such use. Depending on the scientific knowledge available at that time concerning (1) the colonization and R-factor transfer from animals to man, and (2) increased pathogenicity due to toxin-linkage with R-factor, the Commissioner may require further investigations of these or any other pertinent questions as a condition of continued approval of such use notwithstanding a finding that no apparent human health hazard exists.

3. By no later than 2 years following the effective date of this order, all drug efficacy data shall be submitted for any feed-use combination product containing an antibiotic or sulfonamide drug and any feed-use single ingredient antibiotic or sulfonamide product not reviewed by the National Academy of Sciences-National Research Council drug efficacy study covering drugs marketed between 1938 and 1962.

Criteria for demonstrating safety and efficacy of a product under this approach have been developed by the FDA for use by firms wishing to undertake studies, and are available upon request.

This course of action and the criteria referred to have been reviewed in joint consultation between the agency and officers of the Canadian Health Protection Branch in order to facilitate the development of a policy generally applicable to both countries.

The Commissioner recognizes the difficulty of establishing conclusively within 2 years that no human health hazard exists from subtherapeutic use in animal feeds of antibacterial drugs. Balanced against this difficulty is the fact that every expert committee that has reviewed this issue has concluded in general terms that a potential or theoretical human health hazard exists. The Commissioner therefore concludes that the 2-year time period is reasonable under the circumstances. The Commissioner further concludes that continued marketing after 2 years is contingent upon a favorable benefit-risk status following a thorough evaluation of all the data submitted to date on the particular product.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351; 21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), part 135 is amended by adding thereto the following new section:

§ 135.109 Antibiotic and sulfonamide drugs in the feed of animals.

(a) The Commissioner of Food and Drugs will propose to revoke currently approved subtherapeutic (increased rate of gain, disease prevention, etc.) uses in animal feed of antibiotic and sulfonamide drugs whether granted by approval of new animal drug applications, master files and/or antibiotic or food additive regulations, by no later than 2 years following the effective date of this order, unless data are submitted which resolve conclusively the issues concerning their safety to man and animals and their effectiveness under specific criteria established by the Food and Drug Administration based on the guidelines included in the report of the FDA task force on the use of antibiotics in animal feeds. All persons or firms previously marketing identical, related, or similar products not the subject of an approved new animal drug application must submit a new animal drug application by July 19, 1973, if marketing is to continue during the interim. New animal drug entities with antibacterial activity not previously marketed, now pending approval or submitted for approval prior to, on, or following the effective date of this publication, shall satisfy such criteria prior to approval.

(b) Any person interested in developing data which will support retaining approval for such uses of such antibiotic and sulfonamide drugs pursuant to section 512(1) of the Federal Food, Drug, and Cosmetic Act shall submit to the Commissioner the following:

(1) By July 19, 1973, records and reports of completed, ongoing, or planned studies, including protocols, on the tetracyclines, streptomycin, dihydrostreptomycin, penicillin, and the sulfonamides, and for all other antibiotic and sulfonamide drugs, by October 17, 1973. The Food and Drug Administration encourages sponsors to consult with the Bureau of Veterinary Medicine on protocol design and plans for future studies.

(2) By April 20, 1974, data from completed studies on the tetracyclines, streptomycin, dihydrostreptomycin, the sulfonamides and penicillin assessing the effect of the subtherapeutic use of the drug in feed on the salmonella reservoir in the target animal as compared to that in nonmedicated controls. Failure to complete the salmonella studies for any of these drugs by that time will be grounds for proceeding to immediately withdraw approval.

(3) By April 20, 1975, data satisfying all other specified criteria for safety and effectiveness, including the effect on the salmonella reservoir, for any antibiotic or sulfonamide drugs approved for subtherapeutic use in animal feeds. Drug efficacy data shall be submitted for any feed-use combination product containing such drug and any feed-use single ingredient antibiotic or sulfonamide not reviewed by the National Academy of Sciences-National Research Council drug efficacy study covering drugs marketed between 1938 and 1962.

(4) Progress reports on studies underway every January 1 and July 1 until completion.

(c) Failure on the part of any sponsor to comply with any of the provisions of paragraph (b) of this section for any of the antibacterial drugs included in subparagraphs (b)(1) of this section, or interim results indicating a health hazard, will be considered as grounds for immediately proceeding to withdraw approval of that drug for use in animal feeds under section 512(1) of the act in the case of failure to submit required records and reports and under

section 512(e) where new information shows that such drug is not shown to be safe.

(d) Criteria based upon the guidelines laid down by the task force may be obtained from the Food and Drug Administration, Bureau of Veterinary Medicine, 5600 Fishers Lane, Rockville, Md. 20852.

(e) Reports as specified in this section shall be submitted to: Food and Drug Administration, Bureau of Veterinary Medicine, Office of the Assistant to the Director for Antibiotics in Animal Feeds, 5600 Fishers Lane, Rockville, Md. 20852.

(f) Following the completion of the requirements of paragraphs (a) and (b) of this section and the studies provided for therein:

(1) Those antibiotic and sulfonamide drugs which fail to meet the prescribed criteria for subtherapeutic uses but which are found to be effective for therapeutic purposes will be permitted in feed only for high-level, short-term therapeutic use and only by or on the order of a licensed veterinarian.

(2) Animal feeds containing antibacterial drugs permitted to remain in use for subtherapeutic purposes shall be labeled to include a statement of the quantity of such drugs.

Effective date.—This order shall be effective on April 20, 1973.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–51; 21 U.S.C. 360b, 371(a).)

Dated April 16, 1973.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.73-7555 Filed 4-19-73;8:45 am]

CHAPTER II—BUREAU OF NARCOTICS AND DANGEROUS DRUGS, DEPARTMENT OF JUSTICE

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

The Director of the Bureau of Narcotics and Dangerous Drugs has received applications pursuant to § 308.23 of title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 308.24 of title 21 of the Code of Federal Regulations.

The Director hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, education, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, or (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration, that the preparation or mixture does not present any potential for abuse. If the preparation or mixture contains a narcotic controlled substance, the preparation or mixture is formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused, and so that the narcotic substance cannot in practice be removed. The Director further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysis, and suppliers of these products.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and delegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of title 28 of the Code of Federal Regulations, the Director hereby orders that part 308 of title 21 of the Code of Federal Regulations be amended as follows:

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

§ 308.24 Exempt chemical preparations.

* * * * *

(i) * * *

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
* *	* *	* *	*
American Hospital Supply Corp. (Dade Division).	Fibrin Monomer Control, Catalog Nos. B4233-30 and B4233-38.	Bottle: 1.5 ml	Feb. 16, 1973
Do	Moni-Trol 1-X (Normal Range), Catalog Nos.		
	B5106-1	Vial: 5 ml	Mar. 13, 1973
	B5106-5	Vial: 10 ml.	
	B5106-3	Bottle: 25 ml.	
Do	Moni-Trol II-X (Abnormal Range), Catalog Nos.		
	B5106-2	Vial: 5 ml	Do.
	B5106-6	Vial: 10 ml.	
	B5106-4	Bottle: 25 ml.	
Do	Thyroxine Buffer No. B5630-2	Bottle: 55 ml	Jan. 22, 1973
Do	Thyroxine Buffer No. B5630-6	Bottle: 245 ml	Do.
* *	* *	* *	*
Analytical Chemists, Inc	Sodium Barbital Buffer, Catalog Nos. 1-5100 and 1-5200.	Vial: 20.6 g	Aug. 14, 1972
Do	Agarose Universal Electrophoresis Film, Catalog No. 1-1000.	Plate: 5 ml	Do.
* *	* *	* *	*
Bio-Reagents & Diagnostics, Inc	Prochex No. 700-025	Vial: 25 ml	Mar. 9, 1973
Do	Prochex No. 1, No. 701-025	do	Do.
Do	Prochex No. 1 (Alternate Formula) No. 702-025.	do	Do.
Do	Prochex No. 2, No. 703-025	do	Do.
Do	Prochex No. 3, No. 704-025	do	Do.
Do	Prochex No. 4, No. 705-025	do	Do.
Do	Prochex No. 5, No. 706-025	do	Do.
Do	Prochex No. 6, No. 707-025	do	Do.
Do	Prochex No. 7, No. 708-025	do	Do.
Do	Prochex No. 8, No. 709-025	do	Do.
Bio-Reagents & Diagnostics, Inc	Prochex No. 9, No. 710-025	do	Do.
Do	Prochex No. 10, No. 711-025	do	Do.
Do	Prochex No. 10 (Alternate Formula) No. 712-025.	do	Do.
Do	Prochex No. 11, No. 713-025	do	Do.
Do	Prochex No. 12, No. 714-025	do	Do.
Do	Prochex No. 13, No. 715-025	do	Do.
Do	Prochex No. 14, No. 716-025	do	Do.
Do	Prochex No. 15, No. 717-025	do	Do.
Do	Prochex No. 15, (Alternate Formula) No. 718-025.	do	Do.
Do	Prochex No. 16, No. 719-025	do	Do.
Do	Prochex No. 18, No. 721-025	do	Do.
Do	Prochex No. 19, No. 722-025	do	Do.
Do	Prochex No. 20, No. 723-025	do	Do.
* *	* *	* *	*
Brinkmann Instruments, Inc	Brinkmann Drug Screen Standard A	Vial: 1 ml	Jan. 26, 1973
Do	Brinkmann Drug Screen Standard B	do	Do.
Do	Brinkmann Drug Screen Standard C	do	Do.
Do	Brinkmann Drug Screen Standard D	do	Do.
* *	* *	* *	*
E. R. Squibb & Sons, Inc	Thyrostat-4 Kit, Catalog No. 09125 To include:		Feb. 26, 1973
	(a) Thyrostat-4 Standard Solution	Vial: 7 ml	
	(b) Thyrostat-4 Buffer Solution	Bottle: 60 ml	
* *	* *	* *	*
Instrumentation Laboratory, Inc	Tris-Barbital Buffer No. 33205	Vial: 12 dram	Feb. 21, 1973
Do	Barbital Buffer (B-2) No. 33206	do	Do.
Do	EDTA-Barbital Buffer No. 33207	do	Do.
Do	Barbital-Acetate Buffer No. 33208	do	Do.
* *	* *	* *	*
Millipore Corp	Barbital Buffer Solution No. XE21-000-42.	Bottle: 130 ml	Jan. 12, 1973
* *	* *	* *	*

b. By amending § 308.24(i) by deleting the following chemical preparation:

§ 308.24 Exempt chemical preparations.

* * * * *

(i) * * *

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
* * * * * * *			
American Hospital Supply Corp. (Dade Division).	Thyroxine Buffer No. B5630-1	Bottle: 5 ml	Aug. 16, 1971

Effective date.—This order is effective on April 20, 1973. Any interested person may file written comments on or objections to the order on or before June 19, 1973. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Director shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Director shall reinstate, revoke, or amend his original order as he determines appropriate.

Dated April 12, 1973.

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

[FR Doc.73-7552 Filed 4-19-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHATER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Benomyl

A petition (PP 2F1291) was filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) in or on the raw agricultural commodities blackberries, boysenberries, dewberries, loganberries, and raspberries at 7 parts per million.

Subsequently, the petitioner amended the petition by proposing that the tolerances for benomyl be expressed as "combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl)".

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.294 is amended by adding a new paragraph "7 parts per million * * *", after the paragraph "10 parts per million * * *", as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

7 parts per million in or on blackberries, boysenberries, dewberries, loganberries, and raspberries.

* * * * *

Any person who will be adversely affected by the foregoing order may, on or before May 21, 1973, file with the Hearing Clerk, Environmental Protection Agency, room 3902A, 4th and M Streets SW., Waterside Mall, Washington, D.C. 20460, 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.

Effective date.—This order shall become effective April 20, 1973.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2).)

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-7685 Filed 4-19-73;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Cyprazine and 2-[[4-Chloro-6-(Ethylamino)- s - Triazin-2-YL]Amino]-2-Methylpropionitrile; Republication

Two documents (FR Docs. 71-15678 and 71-15679) were published in the FEDERAL REGISTER of Thursday, October 28, 1971 (36 F.R. 20687-8), establishing tolerances for residues of the herbicides cyprazine (§ 420.306) and 2-[[4-chloro-6-(ethylamino)-*s*-triazin-2-yl]amino]-2-methylpropionitrile (§ 420.307). At that time, this Agency's pesticide regulations were under title 21, chapter III, part 420 of the Code of Federal Regulations. Effective in the FEDERAL REGISTER of November 25, 1971 (36 FR 22369), the pesticide regulations were transferred to title 40, chapter I, subchapter E, part 180 of the Code of Federal Regulations. The two aforesaid herbicides, however, were inadvertently omitted from the transfer and thus did not appear in either the November 25, 1971 issue of the FEDERAL REGISTER (36 FR 22540-73) or in the 1972 Code of Federal Regulations.

Therefore, the two regulations establishing tolerances for the subject herbicides are hereby republished for inclusion in the Code of Federal Regulations under the headings of this document, as follows:

§ 180.306 Cyprazine; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide cyprazine (2-chloro-4-cyclopropylamino - 6 - isopropylamino-*s*-triazine) in or on the raw agricultural commodities fresh corn including sweet corn (kernels plus cob with husk removed), corn grain, and corn fodder and forage.

§ 180.307 2-[[4-Chloro-6-(ethylamino)-*s*-triazin-2-yl] amino]-2-methylpropionitrile; tolerances for residues.

A tolerance of 0.05 part per million is established for negligible residues of the herbicide 2-[[4-chloro-6-(ethylamino) - *s* - triazin - 2 - yl]amino] - 2 - methylpropionitrile in or on the raw agricultural commodities fresh corn including sweet corn (kernels plus cob with husk removed), corn grain, and corn fodder and forage.

Since this order merely provides for the republication of two previously published orders and since this matter is noncontroversial, notice, public procedure, and delayed effective data are not prerequisites to this promulgation.

Effective date.—This order shall become effective April 20, 1973.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7686 Filed 4-19-73;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Ethephon

Three petitions were filed by Amchem Products, Inc., Ambler, Pa. 19002, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of pesticide tolerances for residues of the plant regulator ethephon ((2-chloroethyl) phosphonic acid) in or on the raw agricultural commodities, cherries at 10 parts per million, and tomatoes at 2 parts per million (PP 3F1321), grapes at 5 parts per million, and cantaloupes at 2 parts per million (PP 2F1275), and a food additive tolerance for residues in or on the processed food raisins at 10 parts per million (FAP 2H5018).

Subsequently the petitioner amended PP 2F1275 by withdrawing the proposed tolerance for residues in or on grapes and by withdrawing FAP 2H5018 proposing a food additive tolerance for residues in or on raisins.

Based on consideration given, the data submitted in the petition and other relevant material, it is concluded that:

1. The plant regulator is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for pesticide programs (36 FR 9038), § 180.300 is revised to read as follows:

§ 180.300 Ethephon; tolerances for residues.

Tolerances are established for residues of the plant regulator ethephon ((2-chloroethyl)phosphonic acid) in or on raw agricultural commodities as follows:

10 parts per million in or on cherries.

2 parts per million in or on cantaloupes and tomatoes.

0.1 part per million (negligible residue) in or on pineapples.

Any person who will be adversely affected by the foregoing order may, on or before May 21, 1973, file with the Hearing Clerk, Environmental Protection Agency, room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, 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.

Effective date.—This order shall become effective April 20, 1973.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2).)

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7687 Filed 4-19-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

Contract Clauses and Audits

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 301, part 14-7 and part 14-51 of chapter 14, title 41 of the Code of Federal Regulations are hereby amended, and new part 14-63 is added, as set forth below.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the rulemaking process. However, the amendments and revisions herein are minor and entirely administrative in nature. Therefore, the public rulemaking process is waived and these changes shall become effective April 20, 1973.

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

APRIL 13, 1973.

1. The Interior procurement regulations are amended (a) by deleting §§ 14-7.101 and 14-7.101-23 from part 14-7, subpart 14-7.1; (b) by the addition to part 14-7, subpart 14-7.1, of §§ 14-7.150 through 14-7.150-5; (c) by renumbering §§ 14-7.153 and 14-7.154 of subpart 14-7.1 to §§ 14-7.150-1 and 14-7.150-2; (d) by the addition to part 14-7, subpart 14-7.6, of §§ 14-7.602-50(8) through 14-7.602-50(10); and (e) by revising and transferring part 14-51, subpart 14-51.1, and §§ 14-51.000 through 14-51.106, to part 14-63, subpart 14-63.1, and §§ 14-63.000 through 14-63.106. The regulations are amended to read as set forth below.

PART 14-7—CONTRACT CLAUSES

Subpart 14-7.1—Fixed Price Supply Contracts

Sec.

14-7.150	Additional Interior contract clauses.
14-7.150-1	Ocean freight shipments—use of American-flag vessels—reports.
14-7.150-2	Protests.
14-7.150-3	Examination of records.
14-7.150-4	Audit of modifications.
14-7.150-5	Examination of records of contract modifications.

AUTHORITY.—5 U.S.C. 301.

Subpart 14-7.6—Fixed-Price Construction Contracts

14-7.602	Additional standardized clauses.
14-7.602-50	Additional contract clauses.
14-7.602-50(8)	Examination of records.
14-7.602-50(9)	Audit of Modifications.
14-7.602-50(10)	Examination of records of contract modifications.

* * * * *

AUTHORITY: 5 U.S.C. 301.

PARTS 14-50—14-54 [RESERVED]

PARTS 14-56—14-62 [RESERVED]

PART 14-63—AUDIT

Sec.

14-63.000	Scope of part.

Subpart 14-63.1—Audit of Contractor's Records

14-63.101	Audit responsibility.
14-63.102	Purpose of audit.
14-63.103	Types of contracts subject to audit.
14-63.104	Contract clauses.
14-63.104-1	Examination of records.
14-63.104-2	Audit of contract modifications.
14-63.104-3	Examination of records of contract modifications.
14-63.105	Payments under contracts subject to audit.
14-63.105-1	Submission and processing of invoices or vouchers.
14—63.105-2	Action upon receipt of an audit report.
14-63.105-3	Suspensions and disapprovals of amounts claimed.
14-63.106	Waiver.

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

Subpart 14-7.1—Fixed Price Supply Contracts

§ 14-7.150 Additional Interior contract clauses.

The clauses set forth below are prescribed for use, as indicated, in fixed price supply contracts.

§ 14-7.150-1 Ocean freight shipments—use of American-flag vessels—reports.

(a) It is the policy of Interior to encourage and foster the American Merchant Marine. Pursuant to the provisions of section 901(b) of the Merchant Marine Act of 1936 (46 U.S.C. 1241) invitations for bids and requests for proposals shall in appropriate cases contain the following provisions:

U.S.-FLAG VESSEL PROVISION

The contractor agrees to ship on privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of any equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels. Pursuant to section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. sec. 1241(b)), the Secretary or his duly authorized representative may permit shipment in a manner other than that required by this provision upon the basis of evidence furnished by the contractor that U.S.-flag commercial vessels are not available at fair and reasonable rates for U.S.-flag commercial vessels. The contractor will be required to certify compliance with this requirement prior to final payment. For purposes of this section, the term "privately owned U.S.-flag commercial vessels" shall not be deemed to include any vessels which, subsequent to September 21, 1961, shall have been either: (a) Built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of 3 years.

(b) Each affected bureau and office shall submit to the Chief, Office of Market Development, Cargo Preference Control Center, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20235, a report as follows: Within 20 working days of the date of loading for each shipment originating in the United States, or within 30 working days for each shipment originating outside the United States, a report consisting, where obtainable, of a properly notated and legible copy in English of the ocean bill of lading. If a copy of the bill of lading is unobtainable or not in English, the report shall be made in the format following:

U.S. DEPARTMENT OF THE INTERIOR

Bureau or Office_____
Date_____

CARGO PREFERENCE SHIPMENT REPORT

Vessel name_____
Vessel flag_____
Date of loading_____
Port of loading_____
Port of final discharge_____
Commodity description_____
Gross weight in pounds_____
Total ocean freight revenue in U.S. dollars_____

(c) Informal grievance procedure. (1) Whenever any person has a question, problem, complaint, grievance, or controversy pertaining to the terms and conditions of any tenders, charter party terms, or other matter involving the administration of the Cargo Preference Act of 1954, section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241(b)), such person may request the Maritime Administration to afford him an opportunity to discuss the matter informally with representatives of the Maritime Administration and with other involved U.S. Government agencies or foreign missions, embassies, or agencies acting on behalf of a foreign government or persons authorized to speak for them.

(2) In such cases, a request may be made by telephone or letter to the Chief, Office of Market Development, Maritime Administration, Washington, D.C. 20235, area code 202, phone 967-3325. When such a request has been received, the Assistant Secretary of Commerce for Maritime Affairs or his designated representative will promptly consider the matter on its merits and provide assistance if possible. If the matter cannot be resolved satisfactorily by the Maritime Administration, the Assistant Secretary of Commerce for Maritime Affairs or his designated representative will then arrange a meeting at a time and place satisfactory to all interested parties so that the matter may be freely discussed and resolved.

(3) As such meetings, the Assistant Secretary of Commerce for Maritime Affairs or his designated representative may request any U.S. Government agency, foreign mission, embassy, or agency acting on behalf of a foreign government, or others having an interest in the matter to attend a conference, or to send representatives authorized to speak for them. All such meetings and conferences will be conducted in an informal manner.

§ 14–7.150–2 Protests.

The clause set forth in § 14–7.602–50 (3) may, in the discretion of the contracting officer, be used in fixed-price supply contracts (other than small purchases as defined in subpart 1–3.6 of this title).

§ 14–7.150–3 Examination of records.

The clause set forth in § 14–63.104–1 of this chapter shall be used as prescribed in §§ 14–63.103 and 14–63.104–1 of this chapter.

§ 14–7.150–4 Audit of modifications.

The clause set forth in § 14–63.104–2 of this chapter shall be used as prescribed therein.

§ 14–7.150–5 Examination of records of contract modifications.

The clause set forth in § 14–63.104 of this chapter shall be used as prescribed therein.

Subpart 14–7.6—Fixed-Price Construction Contracts

§ 14–7.602 Additional standardized clauses.

§ 14–7.602–50 Additional contract clauses.

§ 14–7.602–50(8) Examination of records.

The clause set forth in § 14–63.104–1 of this chapter shall be used as prescribed in §§ 14–63.103 and 14–63.104–1 of this chapter.

§ 14–7.602–50(9) Audit of modifications.

The clause set forth in § 14–63.104–2 of this chapter shall be used as prescribed therein.

§ 14–7.602–50(10) Examination of records of contract modifications.

The clause set forth in § 14–63.104–3 of this chapter shall be used as set forth therein.

PART 14–51 [RESERVED]

Subpart 14–51.1 [Reserved]

PARTS 14–52—14–54 [RESERVED]

PARTS 14–56—14–62 [RESERVED]

PART 14–63—AUDIT

§ 14–63.000 Scope of part.

This part prescribes policies and procedures pertaining to audit of proposals, contracts, and modifications.

Subpart 14–63.1—Audit of Contractor's Records

§ 14–63.101 Audit responsibility.

The Director, Office of Survey and Review, through Audit Operations conducts audits of contractors' records to the extent that such audits are required by law, regulation, or sound business judgment. Such audits include the conduct of periodic or requested audits of contractors as are warranted by such factors as the amount of the contract, the financial condition, integrity, and reliability of the contractor, prior audit experience, and the adequacy of the contractor's accounting system and other internal controls. The audits also include reviews of cost or pricing data for contractors' proposals for negotiated contracts (see § 1–3.809 of this title). In order that the Government may benefit to the maximum extent from such audits, a coordinated and cooperative effort shall be made by contracting officers, technical specialists, and finance and audit personnel. It is the responsibility of the contracting officer to include appropriate audit clauses in all contracts that are subject to audit and to obtain an audit of proposals and contract modifications (see § 14–63.103).

§ 14–63.102 Purpose of audit.

In addition to the provisions of § 1–3.809 of this title, contract audit as a pricing aid, audits are conducted to advise and make recommendations to the contracting officer concerning:

(a) Propriety of amounts paid, or to be paid, to contractors where such amounts are based on a cost (including modifications for all types of contracts) or time determination or on variable features related to the results of contractors' operations;

(b) Adequacy of measures taken by contractors regarding the use and safeguarding of Government assets under their custody or control;

(c) Compliance by contractors with contractual provisions having financial implications, such as progress payments, advance payments, guaranteed loans, cash return provisions, and price adjustments;

(d) Reasonableness of contractors' settlement proposals in termination of contracts;

(e) Compliance with contract provisions; and

(f) Contractors' financial condition and ability to perform or to continue to perform under Government contracts.

§ 14–63.103 Types of contracts subject to audit.

(a) A preaward audit as required by § 1–3.809 of this title shall be made for each negotiated proposal, contract, and modification where the cost to the Government exceeds or may exceed $100,000.

(b) The following types of contracts estimated to cost the Federal Government in excess of $25,000, shall include the examination of records clause set forth in § 14–63.104–1:

(1) Cost-reimbursement type contracts (see §§ 1–3.405 and 1–3.814–2(e) of this title);

(2) Advertised or negotiated contracts involving the use or disposition of Government-furnished property;

(3) Where advance payments, progress payments based on costs, or guaranteed loans are to be made;

(4) Contracts for supplies or services containing a price warranty or price reduction clause;

(5) Contracts or leases involving income to the Government where the income is based on operations that are under the control of the contractor or lessee;

(6) Fixed-price contracts with escalation (see §§ 1–2.104–3 and 1–3.404–3 of this title), incentives (see §§ 1–3.404–4 and 1–3.407 of this title), or redetermination (see §§ 1–3.404–5 and 1–3.404–7 of this title);

(7) Requirements and indefinite quantity (call-type) contracts (see §§ 1–2.104–4 and 1–3.409 of this title);

(8) Time and materials and labor-hour contracts (see §§ 1–3.406–1 and 1–3.406–2 of this title); and

(9) Leases where (i) the rental is subject to adjustment (such as for a change in real estate taxes or service costs) or (ii) where the rental is dependent upon actual costs.

(c) In some of the contracts listed in paragraph (b) of this section, it may be appropriate to contractually emphasize the scope or extent of any audit, such as with respect to (1) the use or disposition of Government-furnished property or (2) variable or other special features of the contract, e.g., price escalation and compliance with the price warranty or price reduction clauses. In such cases, the contract clause in § 14–63.104–1 may be appropriately modified with the concurrence of the Office of Survey and Review.

(d) Inclusion in contracts of the clause in § 14–63.104–1 (whether or not modified) does not affect in any way the requirements for (1) use in negotiated fixed-price contracts exceeding $2,500 of the examination of records clause permitting review of contractor books and records by the Comptroller General (see § 1–3.814–2(e) of this title), or (2) the clauses on audit and records pertaining to the verification of cost or pricing data (see § 1–3.814–2 of this title).

(e) Contracts and contract modifications aggregating more than $100,000 shall not be divided into separate transactions to avoid the audit requirements.

(f) A request for audit in accordance with paragraph (a) of this section, accompanied by a copy of the applicable proposal, contract, modification, and other pertinent information, will be submitted to the Director, Audit Operations, Office of Survey and Review.

(g) A notice for each contract or modification entered into of the types described in paragraph (b) of this section and § 14–63.104–2 shall be forwarded to the Director, Audit Operations, Office of Survey and Review, within 15 days after the effective date of the contract. The notice shall include the following information:

(1) Contract identifying number,

(2) Contractor's name and address,

(3) A brief description of the work involved,

(4) Effective date of the document,

(5) Completion date (estimated) of the work involved,

(6) Estimated dollar amount.

In addition, a copy of a notice of termination of contracts of the types described in this § 14–63.103 shall be forwarded to the Director, Audit Operations, Office of Survey and Review within 15 days after effective date of termination. Such notice shall contain the contract number and the contractor's name and address and the estimated dollar amount of the costs incurred by the contractor as of the effective date of termination.

§ 14–63.104 Contract clauses.

The following contract clauses are prescribed for use as indicated in this § 14–63.104.

§ 14–63.104–1 Examination of records.

The following contract clause is prescribed for use in contracts listed in § 14–63.103(b) and any negotiated contract which exceeds $2,500 whenever the examination of records by the Comptroller General clause in § 1–7.103–3 of this title is not used:

EXAMINATION OF RECORDS

(a)(1) The contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this contract (hereinafter collectively called "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract.

(2) The contractor agrees to make available at the office of the contractor at all reasonable times during the period set forth in subparagraph (4) below any of the records for inspection, audit or reproduction by any authorized representative of the Comptroller General, Secretary of the Interior, and the contracting officer.

(3) In the event the Comptroller General or any of his duly authorized representatives determine that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the contractor, the contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within 2 years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the contracting officer, such documentary evidence in support of transportation costs as may be required by the Comptroller General or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the contractor shall preserve and make available his records (i) until expiration of 3 years after final payment under this contract or of the time periods for the particular records specified in part 1–20 of the Federal procurement regulations (41 CFR part 1–20), whichever expires earlier, and (ii) for such longer period, if any, as is required by applicable statutes, by any other clause of this contract, or by (A) or (B) below:

(A) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting settlement.

(B) Records which relate to (i) appeals under the disputes clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) costs and expenses of this contract as to which exception has been taken by the Comptroller General, Secretary of the Interior, or the contracting officer, or any of their duly authorized representatives, shall be retained by the contractor until such appeals, litigation, claims, or exceptions have been disposed of.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in subparagraph (4)(B) above, the contractor may in fulfillment of his obligation to retain his records as required by this clause substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of 2 years following the last day of the month of reimbursement to the contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the contracting officer with the concurrence of the Comptroller General or his duly authorized representative.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material or labor-hour basis.

(b) The contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a)(6) above, a provision to the effect that the subcontractor agrees that the Comptroller General, the Secretary of the Interior, and the contracting officer, or any of their duly authorized representatives, shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in part 1–20 of the Federal procurement regulations (41 CFR 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontractor. The term "subcontract", as used in this paragraph (b) only, excludes (i) purchase orders not exceeding $2,500, and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

§ 14–63.104–2 Audit of contract modifications.

The following clause shall be included in all contracts where the cost to the Government is estimated to exceed $100,000, except those listed in § 14–63.103:

AUDIT OF MODIFICATIONS

The "Examination of Records of Contract Modifications" clause contained in 41 CFR 14–63.104–3 shall be included in every modification under this contract which results in a net price adjustment to the Federal Government (increase or decrease) in excess of $100,000.

§ 14–63.104–3 Examination of records of contract modifications.

The following clause is prescribed for use in contract modifications which result in a net price adjustment to the Government (increase or decrease) in excess of $100,000 in accordance with the "Audit of Modifications" clause in § 14–63.104–2:

EXAMINATION OF RECORDS OF CONTRACT MODIFICATIONS

(a) For the purpose of verifying that the cost or pricing data submitted in conjunction with this contract modification were accurate, complete and current, the Secretary and the contracting officer or any of

their authorized representatives, shall, until the expiration of 3 years from the date of final payment under the contract of which this modification is a part, or of the time periods for the particular records specified in part 1-20 of the Federal procurement regulations (41 CFR part 1-20), whichever expires earlier, have the right to examine those books, records, documents, papers and other supporting data which involve transactions related to this modification or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(b) If the contract of which this modification is a part is completely or partially terminated and the work so terminated is included in this modification the records relating thereto shall be preserved and made available for 3 years from the date of any resulting final settlement.

(c) If the records concerning this modification relate to (1) appeals under the contract "Disputes" clause, (2) litigation or settlement of claims arising out of the performance of the contract, or (3) costs and expenses of this contract as to which the contracting officer or his authorized representative have taken exception, they shall be retained by the contractor until such appeals, litigation, claims, or exceptions have been disposed of.

§ 14-63.105 Payments under contracts subject to audit.

§ 14-63.105-1 Submission and processing of invoices or vouchers.

(a) Contractors shall be required to submit invoices or vouchers as directed by the contract provisions. The processing of invoices or vouchers prior to payment for work or services rendered shall include a review by the contracting officer, or his designated representative, to determine that the nature of items and amounts claimed are in consonance with the contract terms, represent prudent business transactions, and are within any stipulated contractual limitations. If the contractor has not deducted from his claim amounts which are questionable or which are required to be withheld, the contracting officer shall make the required deduction, except as provided in § 14-63.105-2.

(b) Provisional approval by the contracting officer of any payment, including any specific approval as to the nature or amount of a cost shall be noted on (or attached to) the invoice or voucher (see, for example, § 1-15.107 of this title regarding advance understandings on particular cost items). The invoice or voucher shall be forwarded to the appropriate accounting center and retained therein after certification and scheduling to a disbursing office for payment.

§ 14-63.105-2 Action upon receipt of an audit report.

Audit reports shall be furnished to the contracting officer. Upon receipt of an audit report, the contracting officer shall, pursuant to contract terms, determine the allowability of all costs covered by audit, giving full consideration to the auditor's recommendations. Where the contracting officer is in doubt or questions the recommendations of the auditor, deductions need not be made from invoices or vouchers for provisional payments. The contracting officer in such cases, however, shall confer with the auditor and other appropriate Government personnel (such as a price specialist or legal counsel) to determine what further action should be taken regarding the items of cost in question. If the contracting officer disagrees with the audit recommendations, the contracting officer shall prepare a statement for the contract file to support and justify his decision and for informational purposes shall forward a copy of such statement to the Direitor, Audit Operations, Office of Survey and Review. The contracting officer shall also furnish a written notice to the Director, Audit Operations, Office of Survey and Review, stating the action taken to recover questioned costs in which the contracting officer concurs with the audit recommendations. Such notices, as well as copies of statements pertaining to nonconcurrence with audit recommendations, shall be forwarded to the Director, Audit Operations within 60 calendar days following issuance of the corresponding audit reports. (See also § 1-3.811 of this title).

§ 14-63.105-3 Suspensions and disapprovals of amounts claimed.

The contracting officer shall notify the appropriate certifying officer in writing when amounts claimed for payment are: (a) Suspended tentatively, (b) disapproved as not being allowable according to contract terms, or (c) not reasonably incident or allocable to performance of the contract. Such notice by the contracting officer shall be the basis for the issuance by the certifying officer of a statement to be attached to each copy of the invoice or voucher from which the deduction has been made, explaining the reasons for the deduction.

§ 14-63.106 Waiver.

The contracting officer and the Director, Office of Survey and Review, may agree to limit the application of specific contract audit requirements in individual cases such as where the possible cost/benefits ratio of the audit do not warrant the assignment of audit resources or where audit resources are unavailable; provided, that the stated urgency of a proposed procurement or other contract action shall not alone be justification for such a waiver and provided the waiver is made within the terms of the Federal Procurement Regulations. As much time as possible should be allowed by contracting officers for the audit work. Except under unusual circumstances, at least 30 days should be allowed for the review of the contractors' proposals pursuant to § 1-3.809 of this title.

[FR Doc.73-7663 Filed 4-19-73;8:45 am]

Proposed

Title 45—Public Welfare

Chapter II—Social and Rehabilitation Service (assistance programs), Department of Health, Education and Welfare

FURNISHING OF ASSISTANCE; NEED AND AMOUNT OF ASSISTANCE

Methods for Determination of Eligibility

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations modify existing regulations under the public assistance titles of the Social Security Act concerning methods of determining eligibility for financial and medical assistance, notice and opportunity for hearing in the financial and medical assistance programs, and recoupment of overpayments in the financial assistance programs.

These changes are intended to promote efficient administration of the public assistance programs by granting States greater flexibility in designing methods and procedures for assuring that assistance is provided to individuals who qualify for it under applicable Federal and State standards, and is denied to those who do not so qualify. The greater latitude which these proposed regulations will give States in controlling the eligibility determination and payment process is intended to assist in elimination of error and reduction of unnecessary program costs.

These amendments also:

1. Implement section 407 of Public Law 92-603, under which local agencies may terminate, reduce, or suspend financial assistance under title I, X, XIV, or XVI after a local evidentiary hearing. The proposed regulations apply the same principle to titles IV-A and XIX, and State-administered as well as State-supervised programs;

2. Supersede the notice of proposed rulemaking published on December 21, 1972 (37 FR 28189) regarding use of public records in the determination of eligibility, since § 206.10(a)(12), which would be amended by the proposal in the previous notice, is now revoked in its entirety. The flexibility afforded to the States under the regulations now proposed for determining eligibility and the amount of payments is intended to include use of public records.

The proposed regulations do not mandate changes in existing State procedures in the areas involved, but permit such modifications as are deemed necessary or desirable by a State, in light of conditions prevailing therein, to improve the reliability of eligibility determinations and the integrity of the payment process.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and

Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, on or before May 20, 1973. Comments received will be available for public inspection in room 5121 of the Department's offices at 301 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-963-7361).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

FRANCIS D. DEGEORGE,
Acting Administrator,
Social and Rehabilitation Service.

Dated April 6, 1973.

Approved April 16, 1973.

CASPAR W. WEINBERGER,
Secretary,
Health, Education, and Welfare.

Chapter II, title 45 of the Code of Federal Regulations is amended as set forth below:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAM

1. Section 205.10(a) is revised to read as follows:

§ 205.10 Fair hearings.

(a) *State plan requirements.* * * *

(1) * * *

(2) Every claimant will be informed in writing at the time of application and at the time of any action affecting his claim:

(i) Of his right to fair hearing, as provided in subparagraph (3) of this paragraph;

(ii) Of the method by which he may obtain a hearing;

(iii) That he may be represented by legal counsel, or by a relative, friend, or other spokesman, or he may represent himself; and

(iv) Of any provision for payment of legal fees by the agency.

(3) An opportunity for a fair hearing before the State agency will be granted to any individual who requests a fair hearing because his claim for financial or medical assistance is denied, or is not acted upon with reasonable promptness, or because he is aggrieved by any other agency action affecting receipt, suspension, reduction, or termination of such assistance, and who raises an issue of fact or judgment relating to the individual case, including a question of whether the State agency rules or policies were correctly applied to the facts of the particular case. An opportunity for a fair hearing before the State agency will likewise be granted to an individual whose request raises only an issue of State agency policy, unless there is made available an alternative procedure whereby views concerning State agency policy can be communicated to officials of the State agency. Under this requirement:

(i) A request for a hearing is defined as a clear expression by the claimant (or person acting for him, such as his legal representative, relative, or friend) to the effect that he wants the opportunity to present his case to higher authority. The State may require that such request be in written form in order to be effective.

(ii) The freedom to make such a request must not be limited or interfered with in any way, and agency emphasis must be on helping the claimant to submit and process his request, and in preparing his case, if needed.

(iii) The claimant must be provided reasonable time in which to appeal an agency action.

(iv) The fair hearing shall include consideration of:

(*a*) Any agency action, or failure to act with reasonable promptness, on a claim for financial or medical assistance, which includes undue delay in reaching a decision on eligibility or in making a payment, refusal to consider a request for or undue delay in making an adjustment in payment, and suspension or discontinuance of such assistance in whole or in part;

(*b*) Agency decision regarding:

(*1*) Eligibility for financial or medical assistance in both initial and subsequent determinations,

(2) Amount of financial or medical assistance or change in payments,

(3) The manner or form of payment, including restricted or protective payments, even though no Federal financial participation is claimed, and

(*4*) Conditions of payment, including work requirements.

(v) States which provide opportunity for fair hearing on issues of agency policy may respond to a series of individual requests for fair hearings by conducting a single group hearing. States may only consolidate cases in which the sole issue involved is one of an agency policy. In such a situation, each individual must be given the right to withdraw from the group hearing in favor of an individual hearing. If recipients request a group hearing on such an issue the State must grant it. In all group hearings, whether initiated by the State or by the claimants, the policies governing fair hearings must be followed. Thus, each individual claimant must be permitted to present his own case and be represented by his own lawyer.

(vi) The agency shall not deny or dismiss a request for a hearing except where it has been withdrawn by claimant in writing, or abandoned.

(4) Hearing procedures will be issued and publicized by the State agency for the guidance of all concerned.

(5) In cases of proposed action to terminate, suspend or reduce assistance:

(i) The State or local agency will give timely and adequate advance notice detailing the reasons for the proposed action, except that the agency may dispense with advance notice in the situations specified in subdivision (ii) of this subparagraph. Under this requirement:

(*a*) "Timely" means that the notice is mailed at least 10 days before the action is to be taken.

(*b*) "Adequate advance notice" means a written notice that includes details of reasons for the proposed agency action, explanation of the individual's right to request an evidentiary hearing (if provided) and a State agency hearing and the circumstances under which assistance is continued if a hearing is requested.

(ii) The State agency may dispense with advance notice when:

(*a*) The agency has factual information confirming the death of a recipient;

(*b*) The agency receives a clear written statement signed by a recipient that he no longer wishes assistance, or that gives information which requires termination or reduction of assistance, and the recipient has indicated, in writing, that he understands that this must be the consequence of supplying such information;

(*c*) The recipient has been admitted or committed to an institution, and further payments to that individual do not qualify for Federal financial participation under the State plan;

(*d*) The claimant's whereabouts are unknown and agency mail directed to him has been returned by the Post Office indicating no known forwarding address. The claimant's check must, however, be made available to him if his whereabouts become known during the payment period covered by the returned check;

(*e*) The agency has determined that there is a likelihood of fraud and has referred the case to the appropriate law enforcement officials;

(*f*) A recipient has been accepted for assistance in a new jurisdiction and that fact has been established by the jurisdiction previously providing assistance; or

(*g*) The only change is that of payee, and no person has been eliminated from payment.

In any case where assistance has been terminated, suspended, or reduced without advance notice, if the recipient requests a hearing within 15 days of the mailing of the notice of the action to the recipient, and there is a question of fact or judgment relating to the individual case, assistance must be reinstated retroactively and continued until the evidentiary hearing (or the State agency fair hearing, if an evidentiary hearing is not provided).

(iii) If the recipient requests a hearing within the advance notice period:

(*a*) Assistance is continued, subject to recovery by the agency if its action is sustained, until a decision is rendered at the fair hearing before the State agency or at an evidentiary hearing meeting due process standards held either by a local agency or by a local unit of the State agency, unless a determination is made that the issue is one of State agency policy and not one of fact or judgment relating to the individual case, including a question of whether the State agency rules or policies were correctly applied to the facts of the particular case. Under this requirement due process standards for an evidentiary hearing are those set forth in the U.S. Supreme Court decision in *Goldberg* v. *Kelly*, 397 U.S. 254 (1970). The provisions of subparagraphs (7) through (17) of this paragraph apply to

evidentiary hearings to the extent required by due process standards;

(b) The agency promptly informs the claimant in writing if assistance is to be discontinued pending the hearing; and

(c) In any case where the decision of an evidentiary hearing is adverse to the claimant, he is informed of and afforded the right to make a written request, within 15 days of receipt by him of the notification of such adverse decision, for a fair hearing before the State agency. Assistance shall not be continued after an adverse decision to the claimant at the evidentiary hearing.

(iv) In cases in which a hearing is requested after expiration of the advance notice period, the State may provide for an additional period during which time the request for a hearing will result in reinstatement of assistance to be continued until the hearing decision.

(6) Information and referral services are provided to help claimants make use of any legal services available in the community that can provide legal representation at the hearing.

(7) The hearing will be conducted at a reasonable time, date, and place, and adequate preliminary written notice will be given.

(8) State level hearings will be conducted by an impartial official (or officials) of the State agency. Under this requirement, the hearing official must not have been involved in any way with the action in question.

(9) When the hearing involves medical issues such as those concerning a diagnosis, or an examining physician's report, or the medical review team's decision, a medical assessment other than that of the person or persons involved in making the original decision will be obtained at agency expense and made part of the record if the hearing officer or the appellant considers it necessary.

(10) The claimant, or his representative, will have adequate opportunity:

(i) To examine all documents and records used at the hearing at a reasonable time before the date of the hearing as well as during the hearing;

(ii) At his option, to present his case himself or with the aid of others including legal counsel;

(iii) To bring witnesses;

(iv) To establish all pertinent facts and circumstances;

(v) To advance any arguments without undue interfence;

(vi) To question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

(11) Prompt, definitive, and final administrative action will be taken within 90 days from the date of the request for a fair hearing, except where the claimant requests a delay in the hearing.

* * * * *

(16) All fair hearing decisions will be accessible to the public (subject to provisions of safeguarding public assistance information).

§ 205.20 [Revoked]

2. Section 205.20 is revoked.

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAM

3. Section 206.10 is revised to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(1) Each individual wishing to do so will have the opportunity to apply for assistance under the plan without delay. Under this requirement (i) each individual may apply under whichever of the State plans he chooses; (ii) the agency shall require a signed, written application, under penalty of perjury, on a form prescribed by the State agency, from the applicant himself, his designated representative, or someone acting responsibly for him; (iii) an applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them; and (iv) individuals eligible for financial assistance are eligible for medical assistance without a separate application.

(3) A decision will be made promptly on applications, pursuant to reasonable State-established time standards not in excess of 45 days for OAA, AFDC, and AB (and in AABD and MA as to the aged and blind) and 60 days in APTD (and in AABD and MA as to the disabled). Under this requirement, the applicant is informed of the agency's time standard in acting on applications, which covers the time from date of application under the State plan to the date that the assistance check, or notification of denial of assistance or change of award, or the eligibility decision with respect to medical assistance, is mailed to the applicant or recipient. The State's time standards apply except in unusual circumstances (e.g., where the agency cannot reach a decision because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the agency, in which instances the case record shows the cause for the delay. The agency's standards of promptness for acting on applications or redetermining eligibility may not be used as a basis for denial of an application or for terminating assistance.

(4) Written notice will be sent to applicants and recipients to indicate that assistance has been authorized (including the amount, if financial assistance) or that it has been denied or terminated for a specified reason and the agency policy on which the decision is based. Under this requirement, the notice must include the right to request a fair hearing or an evidentiary hearing, where provided (see § 205.10 of this chapter).

* * * * *

(6) Entitlement will begin as specified in the State plan, which:

(i) (*a*) For financial assistance must be no later than:

(*1*) The date of authorization of payment, or

(2) Thirty days in OAA, AFDC, AB, and AABD (as to the aged and blind), and 60 days in APTD and AABD (as to the disabled), from the date of receipt of application,

whichever is earlier: *Provided*, That the individual then met all the eligibility conditions, and

(*b*) For purposes of Federal financial participation, may be as early as the first of the month in which an application has been received and the individual meets all the eligibility conditions; and

(ii) For medical assistance must be no later than the date of application for either financial or medical assistance, and may be as early as the third month prior to the month of application if the individual was eligible in that month.

(7) In cases of proposed action to terminate, suspend, or reduce assistance, the agency will give timely and adequate notice.

* * * * *

(10) Standards and methods for determination of eligibility will be consistent with the objectives of the programs, and will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws and will not result in violation of his constitutional rights. The agency especially guards against violations of legal rights and against entering or searching a home illegally.

(11) With respect to tile XIX, policies and procedures will assure that eligibility for medical assistance will be determined in a manner consistent with simplicity of administration and the best interests of the applicant or recipient.

(12) The State agency will establish and maintain methods by which it will be kept currently informed about local agencies' adherence to the State plan provisions and to the State agency's procedural requirements for determining eligibility, and it will take corrective action when necessary.

(b) *Definitions.* For purposes of this section:

(1) "Applicant" is a person who has, directly, or through his designated representative or through someone acting responsibly for him, made application for public assistance from the agency administering the program, and whose application has not been terminated.

(2) "Application" is the action by which an individual indicates in writing to the agency administering public assistance his desire to receive assistance. The relative with whom a child is living

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or will live ordinarily makes application for the child for AFDC. An application is distinguished from an inquiry, which is simply a request for information about eligibility requirements for public assistance. Such inquiry may be followed by an application.

* * * * *

PART 233—COVERAGE AND CONDITION OF ELIGIBILITY IN FINANCE ASSISTANCE PROGRAMS

4. Section 233.20(a) is amended by deleting subdivision (*d*) from subparagraph (3)(ii) and redesignating subdivision (*e*) thereof as (*d*); and by adding a new subparagraph (12), as set forth below:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.*

* * * * *

(12) *Recoupment of overpayments.* Specify uniform statewide policies for recoupment of overpayments of assistance and, if recoupments are made from current assistance payments, establish reasonable limits on the proportion of the payments that may be deducted, so as not to cause undue hardship on recipients. Under this requirement, the State has the option of recouping any overpayment. At the option of the State, the plan may provide:

(i) For recoupment in all situations, or in specified circumstances; or

(ii) For recoupment from available income and resources (including disregarded, set-aside or reserved items), or from current assistance payments, or from both sources.

* * * * *

[FR Doc.73-7623 Filed 4-19-73;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19510; FCC 73-399]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Booneville, Miss.

Report and order and order to show cause.—In the matter of amendment of § 73.606(b), *Table of assignments*, Television Broadcast Stations. (Booneville, Miss.)

1. The notice of proposed rule making in this proceeding, adopted May 17, 1972, proposed the assignment of channel 12, to Booneville, Miss., for educational use, and was instituted in response to a petition filed on February 11, 1971, by the Mississippi Authority for Educational Television (MAET). Deadlines for the filing of comments and reply comments to the notice were set as July 5, 1972, and July 17, 1972 (37 FR 10581), respectively.

2. Timely comments were filed by MAET, by Roy Park Broadcasting of Tennessee, licensee of station WDEF-TV, channel 12, Chatanooga, Tenn., and Capitol Broadcasting Co., licensee of station WJTV, channel 12, Jackson, Miss., Rust Craft Broadcasting Co., licensee of WRDW-TV, Augusta, Ga., and reply comments by MAET and Capitol.

3. The petitioner has demonstrated that a channel 12 transmitter at a proposed and feasible site near Booneville will fully meet the requirements of our rules for geographical separations from cochannel and adjacent channel stations; to establish the necessary frequency offset with nearby stations, it proposes that the Booneville channel employ a negative offset, with concomitant changes in the offset frequencies of three existing stations, viz:

Station	Offset	
	Present	Proposed
Booneville, Miss.		12−
WDEF-TV, Chattanooga, Tenn.	12−	12+
WRDW-TV, Augusta, Ga.	12+	12−
WTLV, Jacksonville, Fla. (formerly WFGA)	12−	12+

4. In its comments in this proceeding, MAET has indicated its willingness to make a reasonable reimbursement of expenses incurred by those stations which may be required to change their frequency offsets as a result of this proceeding.

5. Because it recognized the possibility that operation of a channel 12 facility at Booneville with the maximum facilities permitted by our rules might interfere with the established service patterns of the nearest cochannel stations, MAET has proposed to utilize a directional antenna with height above average terrain of approximately 750', with effective radiated power limited to 100 kw in the maximum lobes, and effective radiated power of 10 kilowatts in the direction of WJTV, Jackson, Miss., a cochannel station located approximately 195 miles southwest of the proposed Booneville transmitter site. The proposed operation is designed to produce a F (50, 10) signal within WJTV's predicted grade B contour of a strength lower than WJTV's signal by more than 28 dB. MAET further proposes to utilize precise frequency offset with respect to WJTV. With the proposed antenna, a Booneville station would radiate approximately 23 kilowatts toward WDEF-TV, which operates on channel 12 at Chattanooga, Tenn., about 195 miles east-northeast of Booneville.

6. Having obtained assurances from MAET that if channel 12 is assigned to Booneville as requested, the facility proposed thereon will have the characteristics described above, Roy Park Broadcasting of Tennessee, licensee of WDEF-TV, Chattanooga, Tenn., states in its comments that it interposes no objection to the addition of channel 12 to Booneville in the table of assignments for noncommercial educational use.

7. On the other hand, Capitol Broadcasting Co., licensee of WJTV, Jackson, Miss., opposes the assignment of channel 12 to Booneville, contending that the utilization of the channel at this location, even with the restrictions which the petitioner proposes, will result in interference to the reception by many regular viewers of WJTV's programs in areas generally north and east of Jackson, beyond its grade B contour, for whom the WJTV signal is the best and perhaps the only available source of CBS network programs. In support of these allegations, Capitol has appended to its comments an engineering statement by Edward F. Lorentz describing the areas and populations computed to be affected by interference, and an Affidavit of L. M. Sepaugh, executive vice president of Capitol, intended to establish, by citations of Neilsen and ARB and other survey data, that WJTV has a substantial audience residing north and east of Jackson, beyond its grade B contour, in an area which the engineering showing predicts would be subject to interference from a Booneville channel 12 station.

8. Lorentz first describes the interference which would occur within WJTV's predicted grade B contour should a Booneville facility operate with maximum permitted effective radiated power (316 kW) and nondirectional antenna, which he estimates would involve an area of 1,622 square miles, in which 54,102 persons reside. Capitol contends that none of these persons receive grade B service from any other full-time CBS affiliate.

9. Should MAET operate the Booneville station as proposed, interference would not occur within the WJTV grade B contour, but would be caused to service presently provided by WJTV beyond that contour. Lorentz demonstrates that between WJTV's grade B contour and its 100 μV/m contour there is an area of 1,998 square miles, including 95,947 persons, which would be subject to interference from a Booneville station, operating as proposed, and which would not receive a signal as great as 100 μV/m from any other CBS affiliate. This area includes substantially all of Carroll and Le Flore Counties, more than half of Sunflower County, and portions of Washington, Bolivar and Montgomery Counties. Mr. Sepaugh cites the TV Factbook (1971–72 ed. No. 41, p. 427(b)) as authority for his statement that WJTV enjoys 50 percent or greater net weekly circulation in each of the six counties, except Bolivar, with a somewhat lower rating in that county. He also alleges that three of the counties, Carroll, Washington, and Montgomery are classified a spart of the basic Jackson television market by Neilsen, that a special study by Neilsen commissioned by WJTV and conducted in February–March 1972, reported viewing of WJTV programs in all six counties, and that WJTV receives substantial amounts of mail from viewers in these counties.

10. MAET's justification for seeking a vhf facility at Booneville, in lieu of its implementation of the uhf channel already assigned at that location, is that there would be sufficient savings in capital and operating costs for a vhf over a uhf facility (it cites $100,000 and $18,000 a year as the estimated savings), that uhf conversion in the area which would be served by a Booneville staton, both in schools and in receivers in the hands of the general public, is comparatively low, and that in the relatively rugged terrain in northeast Mississippi, a vhf facility might be expected to provide a

superior grade of service than would a uhf station.

11. Capitol directly contravenes only the last of these allegations, claiming that the area in question is not unduly hilly—indeed is less so than the average terrain of the United States, in general. It further argues that 96 percent of the area and population of the State of Mississippi is contained within the grade B contours of other stations of the MAET network, and that "the real issue in connection with the present proposal is merely whether MAET is to eke out the remaining 4 percent of its total statewide coverage with a uhf or a vhf signal". It is Capitol's opinion that MAET does not need a vhf facility for this purpose, and it is not in the public interest that channel 12 be made available for such a facility, when operation of a station on this channel would result in a curtailment of the established service of WJTV which it states is the best and perhaps only CBS network service enjoyed by a substantial number of viewers.

12. If it could be assumed that the predicted grade B contours of established television stations encompass the areas within which viewers in all cases receive satisfactory service from these stations, more weight might be given to the argument that substantially complete service to the people of Mississippi is provided by existing stations in the MAET network and that the demands on a Booneville station to supplement this service are only minimal. Such an argument, however, ignores the nature of the grade B contour, which delineates the predicted outer limit of an area within which at least 50 percent of the receiving locations receive a signal of specified level at least 50 percent of the time. Thus, within this contour, a substantial variability exists from location to location in the quality of the service received, with many viewers experiencing a quality of service which may be poor or completely unusable. Therefore, a reasonable objective of a new Booneville station would be not only to provide services to portions of Mississippi which lie outside the grade B contours of existing MAET stations but to offer an alternative source of MAET programs to the many locations which may be within the grade B contours of one or the other of these stations but to which existing service is inadequate.

13. In view of these considerations, the economies inherent in vhf operation, and MAET's uncontroverted claims that conversion for uhf reception in school and in the homes in the Booneville viewing area is far from complete, we believe the need for a vhf facility of Booneville has been established and that it is in the public interest to assign channel 12 there. We shall accordingly make the assignment.

14. The plan pursuant to which TV channel assignments are made contemplates that the service of each station may be limited by such interference as results from the operation of other cochannel stations located at distances from the station at or above the minimums specified in the rules, operating nondirectionally within the power and antenna height ceilings contained therein. The actual service limitations which a station may sustain in any particular case caused by other stations operating in accordance with the rules are given no weight, and, accordingly, our rules include no tools or procedures for the determination of the effect of interstation interference.

15. Methods for estimating the level of interference are, of course, available, and Capitol has employed a generally accepted method to demonstrate that a cochannel Booneville station, operating with its proposed directional antenna might interfere with WJTV service beyond its grade B contour—a service on which many viewers have come to rely—or, if the Booneville station operated nondirectionally with the maximum permissible power, interference within the WJTV grade B contour.

16. Capitol, in our opinion, has not presented a case sufficiently unique and compelling to impel us to ignore long established assignment principles, and to reject a channel assignment which can be made in full compliance with our rules and which we find to be in the public interest. Some curtailment of the established service of existing stations is the frequent and not unexpected result of the implementation of new station assignments. Moreover, even though MAET has suggested that the assignment be made subject to restrictions fashioned about its proposed operation on the channel, we will not impose these limitations on the use of the channel. The adoption of such limitations would establish a precedent almost as undesirable as the denial of the channel assignment itself, standing as it would for the proposition that protection against the effects of interference, may, on occasion, be provided by means over and above those inherent in the maintenance of specified geographical separations and power ceilings. MAET, concerned with a kind of operation at Booneville which it believes is consonant with the overall interest of the people of Mississippi, may undertake voluntarily to implement the assignment under the conditions which it has proposed. Such an operation could be fully in accordance with our rules. However, the Commission, vitally interested in the maintenance of the integrity of its television assignment plan on a national scale, will not compromise that integrity by requiring this kind of operation.

17. Undoubtedly, service presently being provided by WJTV in areas 50 miles and more in north and northeasterly directions from Jackson, will be adversely affected to some extent by a cochannel operation in Booneville with anything but nominal power, and we are sympathetic with the problems of those viewers who may have to make adjustments in their receiving antennas or viewing habits as a result of the Booneville operation.

18. As a practical matter, however, we do not expect the adverse effects of the Booneville operation to be as great as Capitol predicts. The methods used to estimate interference are only approximate, and, as MAET points out, do not take into account the discrimination against interfering signals arriving from other than the favored direction afforded by the high gain antennas commonly used for reception in fringe areas. Illustrative of this fact, the MAET reply comments call attention to the situation existing south of Jackson, where WYES–TV, the educational station in New Orleans, La., operates cochannel with WJTV, short-spaced to WJTV by 31 miles, employing a directional antenna designed to give WJTV the "equivalent protection" of full, but minimum spacing. The ARB data which WJTV partially relies on to demonstrate that it provides service in a northerly direction beyond its grade B contour shows that its southerly service within and to some extent beyond this contour is not substantially curtailed by the WYES signal, despite the fact that, using the prediction methods which Capitol employed in its technical determination of the effect of the Booneville assignment on its service, WYES–TV can be shown to cause interference well within WJTV's grade B contour

19. MAET proposes to afford WJTV much greater protection from interference than obtains in the case cited above, by undertaking to limit power, to employ a directional antenna designed to provide grade B protection for WJTV, and to operate with precision frequency offset with respect to WJTV.

20. As a final circumstance, mitigating the adverse effect on the viewers of CBS network service, now provided by WJTV beyond its grade B contour, we would note that, according to the 1972–73 TV Factbook ARB data, WREC–TV, channel 3, Memphis, Tenn., a CBS affiliate, has a substantial number of viewers in five of the six counties where Capitol predicts the greatest adverse impact from a Booneville assignment would be experienced.

21. The amendments to the table of assignments made herein will substitute channel *12—for channel *20 at Booneville[1] and will require three stations to change frequency offsets. These stations are: WTLV, Jacksonville, Fla., licensed to TeLeVision 12 of Jacksonville Inc.; WRDW–TV, Augusta, Ga., licensed to Rustcraft Broadcasting Co.; and WDEF–TV, Chattanooga, Tenn., licensed to Roy Park Broadcasting of Tennessee, Inc.

22. TeLeVision 12 has not participated in the proceeding and has given no indication of its views. Rustcraft has stated that it has no objection to the amendments provided that MAET is required to reimburse Rustcraft for expenses incurred in making the change in frequency offset. As indicated in paragraph 6, Roy Park does not object to the amendment

[1] MAET has not requested two educationally reserved channels at Booneville nor has a showing of need for two channels been made. Deletion of channel *20 is consistent with the statement in footnote 2 of the notice of proposed rulemaking herein.

because of assurances from MAET that the Booneville station would operate with specified restrictions.

23. As stated above, our decision to assign channel *12— to Booneville does not entail a requirement to operate with restrictions of any kind, other than those imposed by Commission rules. It is not clear from his pleading whether Roy Park does not object because assured by MAET that even if the assignment is unrestricted MAET will operate with restrictions, or whether he does not object so long as the assignment is made with restrictions. Because of this we do not view the Roy Park pleading as a definite consent to modification of its license for WDEF-TV during its license term. Accordingly, since we believe the Booneville assignment to be in the public interest, we are making the amendments to the table effective 3 a.m., e.s.t., August 1, 1973, the date of expiration of licenses of Tennessee broadcast stations, and we are ordering the licensee of WDEF-TV to file its August 1, 1973, renewal application specifying operation on channel 12+ instead of 12—. *Transcontinent Television Corp.* v. *FCC*, 113 U.S. App. D.C. 384, 308 F. 2d 339 (1962).

24. This approach avoids possible procedural delays. Moreover, it will not delay construction of a station at Booneville. Under the provisions of § 73.607(a) of the rules, applications for use of a newly assigned channel may be tendered and accepted for filing prior to the effective date of the channel assignment. The same is true as to the filing of amendments to pending applications. Thus MAET may now file an amendment to its pending application for a construction permit at Booneville (BPET-371) to specify operation on Channel *12—, and processing of its application will not be delayed.[1]

25. Since Rustcraft has consented to modification of its license, if it is reimbursed for the cost of the change, we are modifying its license to specify operation on channel 12— instead of 12+, effective August 1, 1973, and appropriate provisions are made for reimbursement as set forth in the next paragraph. Finally, we are directing to the licensee of WTLV, Jacksonville, Florida, an order to show cause why its license should not be modified to specify operation on channel 12+ instead of 12—, effective August 1, 1973. Appropriate provision for reimbursement for the modification is provided.

26. According to the pleadings in this proceeding, MAET is the instrumentality of the State of Mississippi empowered to initiate or receive for review and approval all applications for educational television and educational radio licenses submitted to the Commission for or on behalf of any public school system, junior college, institution of higher learning, private educational institution, or nonprofit community or municipal educational organization. As mentioned in paragraph 4, MAET has stated that it is willing to make reasonable reimbursements of expenses incurred by stations that are required to change frequency offsets as a result of this proceeding. Thus, whether MAET or some other educational group is ultimately licensed to operate on channel *12, we shall expect MAET to effect reasonable reimbursement to WDEF-TV, Chattanooga, Tenn., WRDW-TV, Augusta, Ga., and WTLV, Jacksonville, Fla. We shall also expect MAET and the stations to act in good faith in this connection.

27. In view of the foregoing: *It is ordered*, That effective August 1, 1973, pursuant to authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, § 73.606(b) of the Commission's rules, the television table of assignments, is amended, insofar as the communities named are concerned, to read as follows:

City:	Channel No.
Jacksonville, Fla	4+, *7, 12+, 17, 30, 47, *59
Augusta, Ga	6+, 12—, 26, 54
Booneville, Miss	*12—
Chattanooga, Tenn	3+, 9, 12+, *45, 61

28. *It is further ordered*, That effective August 1, 1973, and pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Rustcraft Broadcasting Co. for Station WRDW-TV, Augusta, Ga., is modified to specify operation on channel 12— in lieu of channel 12+ subject to the following conditions:

(a) The licensee shall inform the Commission in writing no later than May 9, 1973, of its acceptance of this modification.

(b) The licensee may continue to operate on channel 12+ under its outstanding authorization until it is ready to operate on the new frequency.

(c) The Rustcraft Broadcasting Co. shall not commence operation on channel 12— until the Commission specifically authorizes it to do so.

29. *It is further ordered*, That:

(a) The next application for renewal of license of Station WDEF-TV, Chattanooga, Tenn., shall specify channel 12+ instead of 12—.

(b) The licensee may continue to operate on channel 12— until 3 a.m., e.s.t., August 1, 1973, or it may apply for temporary authority to operate on channel 12+ prior to August 1, 1973.

(c) The licensee of Station WDEF-TV, Chattanooga, Tenn., shall not commence operation on channel 12+ until the Commission specifically authorizes it to do so.

30. *It is further ordered*, That the aforesaid changes in frequency offsets shall be effected as nearly simultaneously as possible.

31. *It is further ordered*, That, not later than May 23, 1973, TeLeVision 12 of Jacksonville Inc., the licensee of Station WTLV, Jacksonville, Fla., with the understanding that it will receive reasonable reimbursement of expenses incurred in changing frequency offset from the Mississippi Authority for Educational Television, shall show cause why its license should not be modified to specify operation on channel 12+ instead of channel 12—, effective August 1, 1973.

32. As soon as possible after the response of TeLeVision 12 of Jacksonville Inc. to the above-mentioned order to show cause, further appropriate orders will be entered in this proceeding.

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

Adopted April 11, 1973.

Released April 16, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-7669 Filed 4-19-73;8:45 am]

[1] In what appears to be the highly unlikely event that an educational group in Tennessee other than MAET should wish to apply for use of channel 12—, it could do so (with, it is assumed, MAET approval).

[2] Commissioners Robert E. Lee and H. Rex Lee absent; Commissioner Johnson concurring in the result.

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 553—RULEMAKING PROCEDURES: MOTOR VEHICLE SAFETY STANDARDS

Submittal of Petitions

Sections 553.31 and 553.35 of Title 49, Code of Federal Regulations, currently specify that petitions for rulemaking and for reconsideration of rules should be addressed to the docket room of the National Highway Traffic Safety Administration. To conform to internal NHTSA correspondence procedures, §§ 553.31 and 553.35 are hereby amended by changing the submission address to the general mailing address specified in § 551.33. For public information, the same address is added to § 553.19, Petitions for extension of time to comment.

The requirement of § 553.31(b)(1) that petitions for rulemaking be submitted in duplicate is unnecessary and inconsistent with agency policy with respect to other submissions, and is being deleted. As in the case of other petitions and comments, it is requested but not required that 10 copies be submitted.

Accordingly, the following amendments are made to 49 CFR, "Part 553, Rulemaking Procedures: Motor Vehicle Safety Standards."

1. Paragraph (b)(1) of § 553.31 is amended to read:

(1) Be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590;.

2. The second sentence of § 553.35(a) is amended to read: "The petition must be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590."

3. Section 553.19 is amended by inserting a new sentence after the first sentence, to read: "The petitions must be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590."

Since this amendment concerns internal agency procedure, it is found that notice and public procedure thereon are unnecessary.

Effective date.—May 23, 1973.

(Sec. 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1407; delegation of authority at 49 CFR 1.51)

Issued on April 13, 1973.

JAMES E. WILSON,
Acting Administrator.

[FR Doc.73-7618 Filed 4-19-73;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 28—PUBLIC ACCESS, USE, AND RECREATION

Mackay Island National Wildlife Refuge, N.C. and Va.

The following special regulation is issued and is effective during the period May 1, 1973, through December 31, 1973.

§ 28.28 Special regulations; recreation; for individual wildlife refuge areas.

NORTH CAROLINA AND VIRGINIA

MACKAY ISLAND NATIONAL WILDLIFE REFUGE

Entry to parking areas during daylight hours on foot, bicycle, or by motor vehicle is permitted. Entry by foot during daylight hours is permitted on designated travel routes for the purpose of nature study, photography, and hiking. Entrance by boat into refuge during daylight hours is permitted for the above purposes from May 1 through October 18. Pets are permitted, but must be on a leash.

The refuge, comprising 6,974 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, P.O. Box 6128, Virginia Beach, Va. 23456, and from Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, part 28, and are effective through December 31, 1973.

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

APRIL 12, 1973.

[FR Doc.73-7588 Filed 4-19-73;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Salt Meadow National Wildlife Refuge, Conn.

The following special regulation is issued and is effective May 1, 1973, through Decmber 31, 1973.

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

CONNECTICUT

SALT MEADOW NATIONAL WILDLIFE REFUGE

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

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

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, part 28, and are effective May 1 through December 31, 1973.

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

APRIL 12, 1973.

[FR Doc.73-7587 Filed 4-19-73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 130—COST OF LIVING COUNCIL PHASE III REGULATIONS

Modification of Food Industry Prenotification Regulations

On March 29, 1973, in connection with the temporary ceiling on meat prices, the Council issued regulations (38 FR 8505; April 3, 1973) providing that pay adjustments affecting employees in the food industry scheduled to take effect after 9 p.m., e.s.t., on that date would be required to be prenotified to the Council before being put into effect. That decision was made under the circumstances then existing and was deemed necessary to accomplish the objectives and goals of the economic stabilization program. The Council has concluded that a phase-in period is now justified during which interim rules should apply that are administratively more convenient to the food industry and to the Council. In addition to the new interim rules, other changes of a clarifying or technical nature are made in the amendments set forth below.

Paragraph (a)(1) of § 130.58a is amended to provide for limitations on its application in paragraph (g) of that section, and to make clear that approval of the pay adjustments scheduled after 9 p.m., e.s.t., March 29, 1973, granted by the Pay Board or its delegate prior to that date will be considered to have been granted by the Council for purposes of satisfying the prenotification and prior approval requirements of that section.

Paragraph (a)(2) of § 130.58a is amended to limit its application to pay adjustments scheduled to be put into effect on or after August 1, 1973. This change complements the interim rules and other limitations on paragraph (a) prescribed in new paragraph (g).

Paragraph (a)(3) of § 130.58a is amended to conform to the limitation provisions in paragraph (g) which require reports instead of prenotification. The intent of these conforming changes is to require the same information whether the submission to the Council is a prenotification or a report.

Paragraph (b) of § 130.58a is amended to make clear that certain increases excludable from adjustment computations under phase II rules are excludable from adjustment computations for prenotification and reporting under § 130.58a.

Paragraphs (c) and (d) of § 130.58a are amended to make clear that the prenotification rules for individual increases and cost-of-living increases apply to the pay adjustments covered under paragraph (a) of that section.

New paragraph (g)(1) of § 130.58a provides that neither a prenotification nor a report will be required with respect to individual increases made after 9 p.m., e.s.t., March 29, 1973, under a merit plan during a control year beginning prior to that date if the total of increases for the appropriate employee unit during the control year does not exceed the general wage and salary standard or any applicable self-executing exception permitted during phase II.

New paragraph (g)(2) of § 130.58a provides interim rules for the period between 9 p.m., e.s.t., March 29, 1973, and August 1, 1973. In the case of contracts and pay practices that were in existence on November 13, 1971, and that provided for increases on or after 9 p.m., e.s.t., March 29, 1973, the scheduled increases are generally permitted to be put into effect without prenotification. However, under subdivision (i) of paragraph (g)(2), a report is required to be made to the Council within 10 days, and the scheduled increases are subject to challenge by a party at interest or by the Council. The Council will then review any challenged pay adjustment and

by order may approve or modify the pay adjustment, or impose other requirements that are reasonable and appropriate to the economic stabilization program.

In the case of contracts and pay practices adopted after November 13, 1971, and prior to 9 p.m., e.s.t., March 29, 1973, which provide for increases after March 29, 1973 and prior to August 1, 1973, new paragraph (g)(2)(ii) of § 130.58a provides that prenotification will not be required if the scheduled increases in an appropriate employee unit for the control year do not exceed the general wage and salary standard or any applicable self-executing exception permitted during phase II. If the scheduled increases for the control year exceed the standard (or applicable self-executing exception), the excess increases shall not be put into effect without approval by the Council; however, the portion of the total increase which is within the standard (or applicable self-executing exception) may be paid.

In the case of new contracts and pay practices adopted after 9 p.m. e.s.t., March 29, 1973, which provide for increases prior to August 1, 1973, new paragraph (g)(2)(iii) of § 130.58a provides that prenotification will not be required to the extent that increases in the unit for the control year do not exceed the general wage and salary standard or any of the self-executing exceptions permitted during phase II. If the scheduled increases for the control year exceed the standard (or applicable self-executing exception), the excess increases shall not be put into effect without approval by the Council; however, the portion of the total increase which is within the standard (or applicable self-executing exception) may be paid.

The Pay Board's phase II form PB–3 (or optional form PB–3A, for employee units of fewer than 1,000 employees) should be used for any prenotification or report required under § 130.58a until a replacement form is issued. All forms should be sent to Office of Wage Stabilization, P.O. Box 19100, Washington, D.C. 20508.

Since the amendments to § 130.58a constitute a relaxation of the rules prescribed on March 29, 1973, these amendments are deemed to supersede the rules prescribed and issued on March 29, 1973, and are made retroactive in effect to 9 p.m., e.s.t., of that date.

Paragraph (b)(1) of § 130.58 is amended to make clear that "pay adjustments affecting employees in the food industry" includes pay adjustments in an appropriate employee unit of any size in which 50 percent or more of the employees are engaged on a regular and continuing basis in food operations. Paragraph (b)(2) of § 130.58 is amended to make clear that such definition also applies to those employees engaged on a regular and continuing basis in food operations within a unit not covered under paragraph (b)(1), if there are at least 60 such employees. These clarifying amendments are effective January 11, 1973.

Because the purpose of these amendments is to provide immediate guidance for compliance with the economic stabilization program during phase III, I find that publication in accordance with normal rulemaking procedures is impracticable and that good cause exists for making these amendments effective in less than 30 days. Interested persons may submit comments regarding these amendments. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–588, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210, 85 Stat. 743; Executive Order 11695, 38 FR 1473; Cost of Living Council Order No. 14, 38 FR 1489, Jan. 11, 1973.)

Issued in Washington, D.C., on April 19, 1973.

JAMES W. MCLANE,
Deputy Director,
Cost of Living Council.

PARAGRAPH 1. Section 130.58 is amended by revising paragraph (b) to read as follows:

§ 130.58 Pay adjustments.

* * * * *

(b) For purposes of paragraph (a) of this section, "Pay adjustments affecting employees in the food industry" means pay adjustments by any manufacturer, service organization, wholesaler, or retailer which is subject to the mandatory price controls of this subpart F, or which would be subject to such price controls except for the operation of subpart E, with respect to:

(1) Employees who are members of an appropriate employee unit (regardless of size) in which 50 percent or more of the employees are engaged on a regular and continuing basis in food operations; and

(2) Employees engaged on a regular and continuing basis in food operations and who are members of an appropriate employee unit (other than a unit referred to in subparagraph (1) of this paragraph) in which 60 or more of such employees are engaged in food operations.

PAR. 2. Section 130.58a is amended by revising the section heading, by revising paragraphs (a) and (b), by adding a prefatory phrase to the first sentence of paragraphs (c) and (d), and by adding a new paragraph (g). Such revisions and additions read as follows:

§ 130.58a Prenotification and reporting requirements for pay adjustments made after 9 p.m., e.s.t., March 29, 1973.

(a) *General rule*—(1) *Prenotification required.*—Except as provided in paragraph (g) of this section, a pay adjustment affecting employees in the food industry shall not be put into effect after 9 p.m., e.s.t., March 29, 1973, unless prenotification of such proposed pay adjustment has been submitted to the Council and the Council has approved such proposed pay adjustment, or such pay adjustment has been permitted to be put into effect pursuant to the provisions of paragraph (a)(2) of this section. Generally, prenotification shall be submitted not less than 60 days prior to the effective date of such proposed pay adjustment or as soon thereafter as the amount and timing of such proposed pay adjustment have been determined. Pay adjustments which were approved by the Pay Board or its delegate are considered to have been approved by the Council for purposes of this paragraph.

(2) *Contracts or pay practices in existence prior to 9 p.m., e.s.t., March 29, 1973.*—If a proposed pay adjustment is scheduled to be put into effect on or after August 1, 1973, pursuant to a contract entered into or pay practice established prior to 9 p.m., e.s.t., March 29, 1973, and—

(i) Prenotification of such pay adjustment has been submitted after 9 p.m., e.s.t., March 29, 1973, under the provisions of this section, and

(ii) The Council has not issued an order with respect to such pay adjustment, ----------

then such pay adjustment may be put into effect 60 days after receipt of such prenotification. Such pay adjustment, however, remains subject to review by the Council, which may by order prescribe specific wages or salaries and impose any other requirements which are reasonable and appropriate to accomplish the purposes of the economic stabilization program.

(3) *Content of prenotification and reports.*—Prenotification and reports shall be submitted on forms prescribed by and pursuant to instructions issued by the Council. All forms should be sent to Office of Wage Stabilization, P.O. Box 19100, Washington, D.C. 20508. In addition—

(i) *Collective bargaining agreements.*—Prenotification and reports of pay adjustments pursuant to a collective bargaining agreement shall include copies of such agreement and the prior succeeded agreement, if any, and a summary of such pay adjustments.

(ii) *Pay practices.*—Prenotification and reports of pay adjustments pursuant to a pay practice shall include a summary of such pay adjustments and information as to all pay adjustments with respect to the appropriate employee unit during the 2 years prior to the control year in which such pay adjustments are put into effect.

(b) *Computation rules.*—For purposes of this subpart the computation rules in subpart E of part 201 of this title shall apply. For example, wage or salary increases attributable to promotions or certain longevity, automatic in-grade progression, apprenticeship, and probationary programs are not considered "pay adjustments" for which prior approval is required under the provisions of this section.

(c) *Individual increases.*—For purposes of paragraph (a) of this section, prenotification of proposed pay adjustments affecting employees in the food industry shall be submitted to the Council in the manner set forth in this paragraph if such pay adjustments apply to

individual employees within an appropriate employee unit during a control year, e.g., through operation of a merit plan which provides individual increases on a random or variable timing basis:

* * * * *

(d) *Cost of living allowance increases.*—For purposes of paragraph (a) of this section, where pay adjustments affecting employees in the food industry are cost of living allowance increases (e.g., pursuant to an escalator formula), prenotification of such proposed pay adjustments shall be submitted to the Council in the following manner:

* * * * *

(g) *Limitatons on prenotification under this section.*—(1) *Certain individual increases.*—Notwithstanding the provisions of paragraph (a) of this section, a pay adjustment scheduled to be put into effect for one or more individual employees on a random or variable timing basis (e.g., through operation of a merit plan) under the terms of a contract entered into or a pay practice established prior to 9 p.m., e.s.t., March 29, 1973, in a control year beginning prior to such time, shall be permitted to be put into effect after such time without prenotification if the total of all wage and salary increases with respect to the appropriate employee unit for such control year does not exceed the general wage and salary standard (or applicable exception thereto for which prior approval was not required under the rules and regulations of the Pay Board in effect on January 10, 1973).

(2) *Interim rules for the period ending July 31, 1973*—(i) *Contracts and pay practices in existence prior to November 14, 1971.*—Notwithstanding the provisions of paragraph (a) of this section, a pay adjustment scheduled to be put into effect after 9 p.m., e.s.t., March 29, 1973, and prior to August 1, 1973, under the terms of a contract or pay practice previously set forth which existed prior to November 14, 1971, may be put into effect according to the terms of such contract or pay practice (provided that in the case of a pay practice such pay adjustment is put into effect with respect to a control year beginning prior to November 14, 1972). However, a report of such pay adjustment shall be submitted to the Council not later than 10 days after such pay adjustment is put into effect. Pay adjustments put into effect pursuant to the provisions of this subdivision are subject to challenge by any party at interest or by the Council. A challenge by a party at interest shall be submitted to the Council. In the event of a challenge, the terms of the contract or pay practice shall be allowed to remain in effect unless and until the Council rules otherwise. The Council will review a challenged pay adjustment to determine whether any wage or salary increase is unreasonably inconsistent with the standards and goals of the economic stabilization program. Following such review, the Council may approve such pay adjustment, prescribe specific wages or salaries, or impose any other requirements which are reasonable and appropriate to accomplish the purpose of the economic stabilization program.

(ii) *Contracts and pay practices in existence after November 13, 1971, and prior to 9 p.m., e.s.t., March 29, 1973.*—Notwithstanding the provisions of paragraph (a) of this section, a pay adjustment scheduled to be put into effect prior to August 1, 1973, under the terms of a contract entered into or a pay practice established prior to 9 p.m., e.s.t., March 29, 1973, which is not within the provisions of subdivision (i) of this subparagraph, may be put into effect without prenotification, to the extent that the total of all pay adjustments for the control year with respect to the appropriate employee unit does not exceed the general wage and salary standard (or applicable exception thereto for which prior approval was not required under the rules and regulations of the Pay Board in effect on January 10, 1973). A report of a pay adjustment put into effect pursuant to the provisions of this subdivision shall be submitted to the Council not later than 10 days after such pay adjustment has been put into effect. Such a pay adjustment remains subject to review by the Council, which may by order prescribe specific wages or salaries and impose any other requirements which are reasonable and appropriate to accomplish the purposes of the economic stabilization program. If the total of all scheduled pay adjustments subject to the provisions of this subdivision exceeds the general wage and salary standard (or exception), the provisions of paragraph (a)(1) of this section shall continue to apply to the portion of such pay adjustments in excess of such standard (or exception).

(iii) *Contracts and pay practices in existence after 9 p.m., e.s.t., March 29, 1973.*—Notwithstanding the provisions of paragraph (a) of this section, a pay adjustment scheduled to be put into effect prior to August 1, 1973, under the terms of a contract or pay practice which is not within the provisions of subdivisions (i) or (ii) of this subparagraph, may be put into effect without prenotification, to the extent that the total of all pay adjustments for the control year with respect to the appropriate employee unit does not exceed the general wage and salary standard (or applicable exception thereto for which prior approval was not required under the rules and regulations of the Pay Board in effect on January 10, 1973). A report of a pay adjustment put into effect pursuant to the provisions of this subdivision shall be submitted to the Council not later than 10 days after such pay adjustment has been put into effect. Such a pay adjustment remains subject to review by the Council, which may by order prescribe specific wages or salaries and impose any other requirements which are reasonable and appropriate to accomplish the purposes of the economic stabilization program. If the total of all scheduled pay adjustments subject to the provisions of this subdivision exceeds the general wage and salary standard (or exception), the provisions of paragraph (a)(1) of this section shall continue to apply to the portion of such pay adjustments in excess of such standard (or exception).

[FR Doc.73-7289 Filed 4-19-73;12:01 pm]

Proposed Rules

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 141]

GENERAL FOREST REGULATIONS

Notice of Proposed Rulemaking

Notice is hereby given that it is proposed to revise §§ 141.7, 141.9, 141.12, 141.16, and 141.19 of part 141, subchapter M, chapter I, title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

The purpose of these amendments is to increase the stumpage value limitation stated in §§ 141.7(c), 141.12, and 141.19(d) from $500 to $2,500; to increase the stumpage value limitation stated in § 141.9(b) from $5,000 to $10,000; to increase advance payments for allotment timber stated in section 141.16 from 15 to 25 percent of the stumpage value, calculated at the bid price, within 30 days of contract approval and before cutting begins, in contracts that are less than 3 years duration, and to make additional payments in contracts that are more than 3 years duration permissive, rather than mandatory as now stipulated by regulation; and to make editorial changes.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments, to the Bureau of Indian Affairs, Washington, D.C. 20245, on or before May 21, 1973. As so amended, §§ 141.7, 141.9, 141.12, 141.16, and 141.19, in their entirety, will read as follows:

§ 141.7 Timber sales from unallotted and allotted lands.

(a) On reservations where the volume of timber available for cutting is in excess of that which is being developed by the Indians, open market sales of Indian timber will be authorized: *Provided*, That consent is given by the authorized representative of the tribe for tribal timber and by the owners of a majority Indian interest in trust or restricted timber on allotted lands. The consent of the Secretary is required in all cases.

(b) The Secretary may sell the timber on any Indian land held under a trust or other patent containing restrictions on alienations without the consent of the owners when in his judgment such action is necessary to prevent loss of values resulting from fire, insects, disease, windthrow, or other catastrophes.

(c) Unless otherwise authorized by the Secretary, sales from unallotted lands, allotted lands, or a combination of these two ownerships having a stumpage value exceeding $2,500 will not be approved until an examination of the timber to be sold has been made by a qualified forest officer and a report setting forth all pertinent information has been submitted to the officer authorized to approve the contract as provided in § 141.13. In all such sales of timber exceeding $2,500 in value, the timber shall be appraised and sold at not less than its appraised value.

§ 141.9 Timber sales without advertisement.

Sales of timber may be made without advertisement with the consent of the authorized representative of the tribe for tribal timber or with the consent of the owners of a majority Indian interest in trust or restricted timber on allotted lands, and the approval of the Secretary: (a) To Indians or non-Indians when the timber is to be cut in conjunction with the granting of a right-of-way or authorized occupancy, or must be cut to protect the forest from injury, or if it is impractical to secure competition by formal advertising procedures, or when otherwise specifically authorized by statutes or regulations; or (b) To Indians who are members of the tribe for stumpage value not exceeding $10,000. Such contracts shall not be made for a longer term than 2 years. The stumpage rates in connection with such sales shall be established by the approving officer after due appraisal procedure. Timber contract forms executed under authority hereof shall be those stipulated for the sale of timber under § 141.12, and shall carry the bond requirement stipulated in § 141.14. No more than one such sale without advertisement may be made to any person or operating group of persons in any 1 calendar year. In the case of each negotiated transaction the approving officer shall establish a documented record of the transaction, including a written determination and finding that the transaction is of a type or class allowing the negotiation procedures or warranting departure from the procedures provided in § 141.8; the extent of solicitation and competition, or a statement of the facts upon which a finding of impracticability of securing competition is based; and a statement of the factors on which the award is based, including a determination as to the reasonability of the price accepted.

§ 141.12 Contracts required.

Except as provided in § 141.19(c), in sales of timber with an appraised stumpage value exceeding $2,500 the contract forms approved by the Secretary must be used unless a special form for a particular sale or class of sales is approved by the Secretary. The approved forms provide flexibility to meet variable conditions, but essential departures from the fundamental requirements of such contracts shall be made only with the approval of the Secretary. Unless otherwise directed, the contracts shall require that the proceeds be paid by remittance drawn to the Bureau of Indian Affairs and transmitted to the Superintendent. Contracts may be extended, modified, or assigned subject to approval of the approving officer, and may be terminated by the approving officer upon completion.

§ 141.16 Advance payment for allotment timber.

Unless otherwise authorized by the Secretary, and except in the case of lump sum sales, contracts for the sale of timber from trust allotments shall provide for the payment of 25 percent of the stumpage value, calculated at the bid price, within 30 days from the date of approval and before cutting begins. Additional advance payments may be specified in contracts that are more than 3 years in duration; however, no advance payment will be required that would make the sum of such payment and of advance deposits and advance payments previously applied against timber cut from the allotment exceed 50 percent of the bid stumpage value. The advance payments shall be credited against the allotment timber as it is cut and scaled, at the stumpage rates governing at the time of scaling.

§ 141.19 Timber cutting permits.

(a) Except as provided in § 141.20, all timber cutting that is not done under formal contract, pursuant to § 141.12, shall be done under timber cutting permit forms approved by the Secretary. Permits will be issued only with the consent of the Indian owner or the Secretary, for allotted lands, as authorized in § 141.13(b). Such consents to the issuance of cutting permits shall stipulate the minimum stumpage rates at which timber may be sold under permit.

(b) Free-use cutting permits may be issued for specified species and types of forest products by persons authorized under § 141.13 to execute timber contracts. Timber cut under this authority may be limited as to sale or exchange for other goods or services.

(c) An Indian having sole beneficial interest in an allotment may be issued an approved form of special permit to cut and sell designated timber from such allotment. The special permit shall include provision for payment by the Indian of administrative expenses pursuant to § 141.18. Unless waived by the Secretary, the permit shall also require the Indian to make a deposit with the Secretary to be returned to the Indian upon satisfactory completion of the permit or to be used by the Secretary in his discretion for planting or other work to offset damage to the land or the timber caused by the Indian's failure to comply with the provisions of the permit. As a condition to granting a special permit under authority of this paragraph, the Indian may be required to provide evidence acceptable to the Secretary that he has arranged a bona fide sale of the timber to be cut, on terms that will protect the Indian's interests. In special cases, the Secretary may authorize exceptions to the requirement of sole beneficial interest in an allotment.

(d) Permits to be valid must be approved by the Secretary. The stumpage value which may be cut in 1 calendar year by any individual under authority of paragraphs (a) and (b) of this section shall not exceed $2,500, but this limitation shall not apply to cutting under authority in paragraph (c) of this section. Essential departures from the fundamental requirements for issuance of special allotment timber cutting permits under authority of paragraph (c) of this section shall be made only with the approval of the Secretary.

NEWTON W. EDWARDS,
Acting Secretary of the Interior.

APRIL 13, 1973.

[FR Doc.73-7664 Filed 4-19-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Parts 327, 381]

DEFINITION OF IMPORTATION

Notice of Proposed Rulemaking

Notice is hereby given in accordance with the administrative procedure provisions of 5 U.S.C. 553 that the Animal and Plant Health Inspection Service is considering amending part 327 of the Federal meat inspection regulations (9 CFR 327) and part 381, subpart T, of the poultry products inspection regulations (9 CFR 381) as indicated below pursuant to the authority contained in the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and the Poultry Products Inspection Act, as amended (21 U.S.C. 463 et seq.).

Statement of considerations.—The proposed amendments are intended to clarify the meaning of the term "importation" or "imported" as those terms are used in the Federal Meat Inspection and Poultry Products Inspection Acts and regulations issued thereunder.

Under the Federal Meat Inspection Act (21 U.S.C. 620) and the Poultry Products Inspection Act (21 U.S.C. 466), no meat or meat food products or slaughtered poultry or poultry products shall be imported into the United States if they are adulterated or misbranded and unless they comply with all the inspection and other provisions of the acts and regulations issued thereunder applicable to such articles within the commerce of the United States. Meat or poultry products that are not entered into this country with a view of disposing of them in the commerce of the United States, are not subject to import inspection under said acts. The sale of meat or poultry products in a port of the United States, even for use as sea stores, is a transaction in the "commerce" of the United States, as that term is defined in the Federal Meat Inspection Act (21 U.S.C. 601(h)) and the Poultry Products Inspection Act (21 U.S.C. 453(a)).

The proposed amendments specify transactions with respect to foreign meat and poultry products which would not fall within the term "importation" or "imported" and would therefore not subject such products to the provisions of said acts and regulations with respect to imports.

Therefore, the present provisions of § 327.1 would be designated as paragraph (a) of that section, and a new paragraph (b) would be added as follows:

§ 327.1 Application of provisions.

* * * * *

(b) For the purposes of this part, the term "importation" or "imported" shall refer to any product, as defined in § 301.2 of this subchapter, prepared in a foreign country which is brought into the United States for any reason, including sale or distribution for ship stores, except for that which:

(1) Is consigned to another country and shipped (including incidental storage) to that country across a portion of the United States under U.S. Customs Service custody;

(2) Is stored under Customs custody pending decision with respect to disposition in the commerce of the United States; or

(3) Constitutes ship stores aboard and is not removed from the vessel or carrier which enters the territorial waters of the United States, or which is not sold while aboard such vessel or carrier in the United States.

* * * * *

A new paragraph (c) under § 381.195 of the Federal poultry products inspection regulations would be added as follows:

§ 381.195 Requirements for importation into the United States.

* * * * *

(c) For purposes of this subpart, the term "importation" or "imported" shall refer to any poultry product, as defined in subpart A of this part, prepared in a foreign country, which is brought into the United States, for any reason, including sale or distribution for ship stores, except for that which:

(1) Is consigned to another country and shipped (including incidental storage) to that country across a portion of the United States under U.S. Customs Service custody;

(2) Is stored under Customs custody pending decision with respect to disposition in the commerce of the United States; or

(3) Constitutes ship stores aboard and is not removed from the vessel or carrier which enters the territorial waters of the United States, or which is not sold while abroad such vessel or carrier in the United States.

* * * * *

Any person wishing to submit written data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by June 15, 1973.

Any person desiring opportunity for oral presentation of views should address such requests to the Inspection Standards and Regulations Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C., so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the office of the hearing clerk during regular hours of business, unless the person makes the submission to the staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise notice will be given of denial of such request and an opportunity afforded for withdrawal of the submisison. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on April 13, 1973.

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

[FR Doc.73-7603 Filed 4-19-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 135]

NITROFURAN DRUGS IN THE FEED OF ANIMALS

Notice of Proposed Rulemaking

An order published elsewhere in this issue of the FEDERAL REGISTER establishes a new regulation (§ 135.109 Antibiotic and Sulfonamide Drugs in the Feed of Animals) based upon a proposal published in the FEDERAL REGISTER of February 1, 1972 (37 FR 2444), providing that under certain circumstances, the use of subtherapeutic levels of antibacterial drugs in the feed of animals may be curtailed on the basis of the need for certain additional information. Although the proposal in its text referred to antibacterial drugs, it did not refer specifically to the nitrofuran derivative drugs as being encompassed by the proposal.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351; 21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that part 135 be amended in § 135.109 to establish that the requirements of that section equally apply to the nitrofuran derivative drugs. The time limitations will be appropriately revised in any final order based upon this proposal to correspond with the time intervals specified for the antibiotic and sulfonamide drugs. It is proposed that §135.109 be amended, as follows:

1. In the section heading by inserting the word "nitrofuran," following the word "antibiotic,".

2. In paragraph (a) in the first sentence by inserting the word "nitrofuran," following the word "antibiotic,", where the word "antibiotic" appears the first time.

3. In paragraph (b) by inserting the word "nitrofuran," following the word "antibiotic,".

4. In paragraph (b)(1) by inserting the word "nitrofuran," following the word "antibiotic,".

5. In paragraph (b)(3) by inserting the word "nitrofuran" following the word "antibiotic," wherever it appears.

6. In paragraph (f)(1) by inserting the word "nitrofuran," following the word "antibiotic,".

Interested persons may on or before May 21, 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 April 16, 1973.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.73–7556 Filed 4–19–73;8:45 am]

Office of Education

[45 CFR Part 189]

VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Notice of Proposed Rulemaking

Correction

In FR Doc. 73–7353 appearing at page 9471 as part II of the issue of Monday, April 16, 1973, the following changes should be made:

1. In § 189.3(b)(2)(ii), change the figure "$112" to read "$112.50".

2. In the last line of paragraph (c) of § 189.16, the last word "contracts", should read "contacts".

3. Immediately after § 189.16(c) and before subparagraph (1) insert:

"(d) With respect to special education programs, the establishment and maintence of—".

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 225]

[Docket No. RAR–1, Notice 2]

RAILROAD ACCIDENTS

Telegraphic Reports; Correction

In FR Doc. 73–7432, appearing at page 9597 of the issue for Wednesday, April 18, 1973, the proposed text of paragraph (a)(1) of § 225.1 was stated incorrectly. Change the proposed § 225.1(a)(1) to read as follows:

§ 225.1 Telegraphic reports of certain accidents.

(a) * * *

(1) Each collision and each derailment on the railroad operated by the carrier involving a train, handcar, section motorcar, or other self-propelled railcar, including a collision with a motor vehicle at a highway grade crossing, which results in—

* * * * *

Issued in Washington, D.C., on April 19, 1973.

DONALD W. BENNETT,
Chief Counsel.

[FR Doc.73–2836 Filed 4–19–73;10:06 am]

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[49 CFR Part 571]

[Docket No. 69–7; Notice 26]

OCCUPANT CRASH PROTECTION

Proposed Interlock Amendments

The purpose of this notice is to propose amendments to the seatbelt interlock option of Motor Vehicle Safety Standard No. 208. Under the proposal the interlock option would continue to be effective August 15, 1973, but would be altered in substantive respects.

As amended in February 1972 (37 FR 3911), standard 208 provided that passenger cars manufactured between August 15, 1973 and August 15, 1975, could be equipped with seatbelt interlock systems in lieu of the passive restraint systems that were to have become mandatory on August 15, 1973. The interlock features of the system were designed to prevent operation of the engine starting system unless the belts had been operated after the occupants were seated. An additional requirement was that the belts at the front outboard positions were to be capable of meeting the injury criteria of the standard in a 30 mi/h barrier crash with instrumented test dummies.

The initial amendment proposed by this notice is the deletion of the injury criteria as applied to belts under the interlock option in 1973. This amendment is proposed as a direct consequence of the decision of the U.S. Court of Appeals for the Sixth Circuit in *Ford* v. *National Highway Traffic Safety Administration*, No. 72–1179, decided February 2, 1973. The court in *Ford* ruled that its earlier opinion in *Chrysler* v. *Volpe*, Sixth Circuit, No. 71–1339 et al., decided December 5, 1972, was dispositive of the *Ford* petition, and therefore invalidated those portions of the seatbelt interlock option that rely on the test dummy for measurement of injury criteria.

Although under the court's decisions there is no obstacle to the imposition of injury criteria within a reasonable time after the agency specifies a new test dummy, the recently proposed test dummy regulation will not result in a final specification in time for manufacturers to conduct a new series of seatbelt evaluation tests before the 1974 model year. Accordingly, it is proposed that the paragraph requiring belts to meet the injury criteria (S4.1.2.3.1(d)) be deleted.

Also affected by the invalidation of the test dummy is the requirement that the center front seatbelt restrain a dummy in a 30-mi/h barrier test without belt breakage (S4.1.2.3.1(e)). To reinstate this requirement for 1974 models, the agency would need to reestablish a dummy specification in time for certification tests to be run. Present information indicates that the breakage test requirement does not contribute substantially to the performance of belt systems. It is therefore proposed that the requirement be deleted.

With the deletion of the injury criteria, the performance requirements applicable to all belts in interlock systems will be those of standard 209 (§ 571.209). Standard 209 applies by its own terms to all seatbelt systems. The NHTSA had intended, in notice 16, to relieve belts with injury criteria capability from the 209 requirements. However, now that the injury criteria have been deemed invalid, standard 209 again becomes applicable to seatbelts at the driver and right front passenger positions. This is consistent with the court's holding in *Ford* that, in the absence of valid injury criteria, standard 209 will be fully applicable to belts installed under the interlock option. In light of this, and in order to

make the paragraphs of S4.1.2.3 internally consistent, a reference to standard 309 is proposed to be added to S4.1.2.3.1 (a). The type 1 belt option allowed for front outboard belts that meet the injury criteria is proposed to be deleted.

In the *Ford* decision, the court declined to invalidate the interlock aspects of the third option, despite a strong request by the petitioner (Ford) that it do so. The interlock requirement had been advanced by the NHTSA as a means of increasing belt usage during the period before passive restraints were to become mandatory. The agency still considers the interlock system to be capable of increasing belt usage, particularly shoulder belt usage, to a level considerably beyond the levels observed for the currently installed belt warning systems.

In recent months, several manufacturers have requested the agency to amend or revoke the interlock feature for reasons having to do with its reliability and the consequences of its malfunction. Rulemaking petitions requesting such action have been submitted by General Motors, Chrylser, American Motors, Fiat, and Mr. Jesse R. Hollins. Manufacturer estimates indicate that failures to start may be increased substantially by the presence of the starter interlock. Their figures are necessarily speculative, and the degree of reliability of any system is a function of the manufacturers' own design and quality control. Studies of the safety effectiveness of the interlock systems indicate that benefits to be gained from the resultant increase in belt usage outweigh the costs of the systems, even taking into account the possibility of malfunction.

The reliability of the interlock, however, appears to be related to the number of sensors whose input can affect the operation of the ignition system. After considering the benefits of the interlock at each of the front positions, the NHTSA has tentatively concluded that the removal of the center position from the system will increase the system's reliability and will have the least effect on the overall seatbelt usage rate, due to the relatively low occupancy of that position. Accordingly, it is proposed that the interlock requirement for the center front position be deleted. The warning system would continue to be required at that position. To the extent that the petitions seek removal of the interlock requirement from the front outboard seats, the petitions are hereby denied.

A second proposed amendment that bears on the convenience of the system is the addition of an alternative interlock system that, while permitting the engine to be started, would prevent the vehicle from moving under its own power until the occupants operate the belts in the correct sequence. A variant of this alternative has been suggested in the past, and it may prove desirable for some manufacturers. The alternative interlock is proposed as a new S7.5, and would be incorporated into the interlock option of S4.1.2.3 by requiring an interlock system that conforms to "S7.4 or S7.5."

Two additional convenience features are also proposed for the interlock system, in response to petitions and comments by various manufacturers. The first feature consists of an additional "free-start" mode under S7.4.3, and is proposed in response to a petition by Ford.

In a petition for rulemaking dated November 16, 1972, Ford requested an amendment of S7.4.3 to provide that the 3-minute "free start" interval begins when "the ignition has been turned off and the driver has left his seated position." Ford sees this as a convenience in the typical filling station visit, where the driver may keep his belt fastened while the engine is stopped and the car is being serviced, then lift off the seat to remove the wallet from his hip pocket. Under the present wording of S7.4.3, if more than 3 minutes had passed after the driver turned the ignition off, he would have to unbuckle and rebuckle his belt in order to start the car. Under the Ford proposal, the driver would be able to start the car without operating his belt again.

The NHTSA has tentatively concluded that Ford's request has merit and that it should be granted in substance. However, so that the manufacturers whose systems have been designed to use a timer connected to the ignition would not be compelled to change their systems to connect it to the seat sensor, the Ford amendment is being proposed as a fourth alternative under S7.4.3.

The second feature is a proposed "seat-bounce" amendment for the interlock. Nissan Motors has suggested that, if some delay is not provided in the circuit, a person who enters the car and operates the belt properly could throw the system out of sequence if he shifts his weight off the seat temporarily before trying to start the engine. This situation is similar to the filling station case presented by Ford, with the difference that the Ford request falls under S7.4.3, which is based on events after the engine stops. In the Nissan situation, the engine would not have been started and the S7.4.3 "free-start" modes could not apply. To alleviate the situation described by Nissan, the NHTSA proposes a new S7.4.5 that will permit the engine starting system to be operated despite a brief move by the belted occupant off the seat.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date.—May 23, 1973.

Proposed effective date.—August 15, 1973.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on April 18, 1973.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

1. S4.1.2.3 would be amended to read as follows—

S4.1.2.3 Third option—Lap and shoulder belt protection system with ignition interlock and belt warning.

S4.1.2.3.1 Except for convertibles and open-body vehicles, the vehicle shall—

(a) At each front outboard designated seating position have a type 2 seatbelt assembly with a nondetachable upper torso portion that conforms to standard No. 209 (§ 571.209) and to S7.1 and S7.2 of this standard, a seatbelt warning system that conforms to S7.3, and a belt interlock system that conforms to S7.4 or S7.5;

(b) At any center front designated seating position, have a type 1 or type 2 seatbelt assembly that conforms to standard No. 209 (§ 571.209) and to S7.1 and S7.2 of this standard, and a seatbelt warning system that conforms to S7.3; and

(c) At each other designated seating position, have a type 1 or type 2 seatbelt assembly that conforms to standard No. 209 (§ 571.209) and S7.1 and S7.2 of this standard.

S4.1.2.3.2 Convertibles and open-body type vehicles shall at each designated seating position have a type 1 or type 2 seatbelt asembly that conforms to standard No. 209 (§ 571.209) and to S7.1 and S7.2 of this standard, at each front designated seating position have a seatbelt warning system that conforms to S7.3, and at each front outboard designated seating position have a belt interlock system that conforms to S7.4 or S7.5.

2. S7.4.1 would be amended to read as follows:

S7.4.1 Except as otherwise provided in S7.4.3, S7.4.4, and S7.5, the engine starting system of a passenger car manufactured in accordance with S4.1.2.3 shall not be operable when either condition (a) or (b) exists, unless the belt system at each occupied front outboard position is operated after the occupant is seated. At each seating position, the operation that allows the starting of the engine shall be, at the manufacturer's option, either the extension of the belt assembly at least 4 inches from its stowed position, or the fastening of the belt latch mechanism.

(a) A person of at least the weight of a 5th-percentile adult female is seated at the driver's seating position.

(b) A person of at least the weight of a 50th-percentile adult male is seated at the driver's seating position and a person of at least the weight of a 50th-percentile 6-year-old child is seated at the right front seating position.

3. S7.4.3 would be amended to read as follows:

S.7.4.3 Notwithstanding the provisions of S7.4.1, an engine starting system may operate without interference from a belt interlock system after the engine has stopped—

(a) If the ignition has not been turned off;

(b) Within a period of not more than 3 minutes after the ignition has been turned off;

(c) If the driver has not left his seated position; or

(d) Within a period of not more than 3 minutes after the driver has left his seated position.

4. S7.4.5 would be added to read as follows:

S7.4.5 Notwithstanding the provisions of S7.4.1, if a belt system has been operated after the occupant is seated, the engine starting system may remain operable if an occupant has taken his weight off the seat for a period of not more than 10 seconds without unbuckling or retracting the seatbelt.

5. S7.5 would be added to read as follows:

S7.5 Alternative belt interlock system.

S7.5.1 Notwithstanding the provisions of S7.4, the engine starting system of a passenger car manufactured in accordance with S4.1.2.3 may be operable when condition (a) or condition (b) exists and the belt system at an occupied position has not been operated, if the vehicle cannot be moved under its own power unless the belt system at each occupied front outboard position is operated after the occupant is seated. At each seating position the operation that allows the vehicle to move under its own power shall be, at the manufacturer's option, either the extension of the belt assembly at least 4 inches from its stowed position, or the fastening of the belt latch mechanism.

(a) A person of at least the weight of a 5th percentile adult female is seated at the driver's seating position.

(b) A person of at least the weight of a 50th-percentile adult male is seated at the driver's seating position and a person of at least the weight of a 50th percentile 6-year-old child is seated at the right front seating position.

S7.5.2 A belt interlock system furnished in accordance with S7.5.1 shall not affect the operation of the vehicle when the vehicle is in motion.

[FR Doc.73-7835 Filed 4-19-73;9:30 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

ENDOSULFAN

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

Dr. C. C. Compton, coordinator, interregional research project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 technical committee and the Agricultural Experiment Station of California submitted a petition (PP 3E1300), proposing establishment of tolerances for total residues of the insecticide endosulfan and its metabolite endosulfan sulfate in or on the raw agricultural commodities mustard seed and rape seed at 0.2 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are proposed.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The proposed tolerances represent negligible residues and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), it is proposed that § 180.182 be amended by revising the paragraph "0.2 part per million (negligible residue) * * *" to read as follows:

§ 180.182 Endosulfan; tolerances for residues.

* * * * *

0.2 part per million (negligible residue) in or on almonds; filberts; macadamia nuts; mustard seed; pecans; potatoes; rape seed; safflower seed; straw of barley, oats, rye, and wheat; and walnuts.

* * * * *

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before May 21, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, on or before May 21, 1973, file with the hearing clerk, Environmental Protection Agency, room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the hearing clerk.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7688: Filed 4-19-73;8:45 am]

[40 CFR Part 180]

XYLENE

Proposed Exemption From Tolerance

The U.S. Department of the Interior submitted a petition (PP 1E1133) requesting establishment of an exemption from the requirement of a tolerance for residues of xylene in water resulting from its use as an aquatic herbicide in irrigation conveyance systems. Because of its toxicity to fish and other aquatic life, it is not to be used in natural streams and rivers, but only in manmade irrigation conveyance systems and under conditions where beneficial aquatic life will not be harmed.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that the herbicide is useful, that the proposed exemption is safe, and that a tolerance is not necessary to protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (35 FR 9038), it is proposed that part 180 be amended by adding the following new section to subpart D:

§ 180.1025 Xylene; exemption from the requirement of a tolerance.

Xylene is exempted from the requirement of a tolerance when used as an aquatic herbicide applied to irrigation conveyance systems in accordance with the following conditions:

(a) It is to be used only in programs of the Bureau of Reclamation, U.S. Department of the Interior, and cooperating water user organizations.

(b) It is to be applied as an emulsion at an initial concentration not to exceed 750 parts per million.

(c) It is not to be applied when there is any likelihood that the irrigation water

will be used as a source of raw water for a potable water system or where return flows of such treated irrigation water into receiving rivers and streams would contain residues of xylene in excess of 10 parts per million.

(d) Xylene to be used as an aquatic herbicide shall meet the requirement limiting the presence of polynuclear aromatic hydrocarbons as listed in § 121.1203(b)(3) of title 21, Code of Federal Regulations.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before May 21, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, on or before May 21, 1973, file with the Hearing clerk, Environmental Protection Agency, room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the hearing clerk.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-7689 Filed 4-19-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 18, 21, 73, 74, 89, 91, 93]

[Docket No. 18262; FCC 73-400]

LAND MOBILE SERVICE

Schedule for Oral Presentations on Amendment

In the matter of an inquiry relative to the future use of the frequency band 806-960 MHz; and amendment of parts 2, 18, 21, 73, 74, 89, 91, and 93 of the rules relative to operations in the land mobile service between 806 and 960 MHz; docket No. 18262.

1. The Commission, on March 13, 1973, adopted an order for oral presentation in the above-mentioned proceeding.[1] The order set a period for interested parties to file written notices of intention to appear and participate, and scheduled the oral presentations for May 7 and 8, 1973. Since then, the date for filing such notices was extended from March 22 to March 29, 1973.[2] In addition, it was necessary to reschedule the dates for the oral presentations to May 14 and 15, 1973.[3]

2. Nearly 100 notices of intention to appear and participate in the oral presentations were received. A complete list appears in appendix A below.

3. The overwhelming response has created a time allotment problem for the oral presentations. The specific times requested and comparable times to parties not specifying times total considerably more than the 2 days available. Thus, to obtain maximum advantage of the time available, the Commission has adopted a schedule that will provide ample opportunity to express the diverse views on the various issues, while, at the same time, maintaining a balance between the various interests.

4. The schedule was developed by arranging the parties in four basic groups: Common carriers and their representatives; land mobile equipment manufacturers; private land mobile user representatives; and other interests. Individual parties within each major group were allotted time according to past participation in this proceeding. Parties representing the broadest views were scheduled to appear on the first day. Parties representing more specific interests were scheduled the second day. Other than keeping parties representing similar interests together, the order of appearance on the second day was at random.

5. We have received notices of appearance from a large group of private radio station licensees, and although it would be desirable to hear their views, it is not practical. To attempt to schedule all parties in the available time would not serve either the Commission's purposes or the purposes of the parties involved. Some thought was given to scheduling elected spokesmen to express representative views of the remaining parties. However, the Commission feels that it would be impossible for such a diverse group to organize themselves in such a short period. It appears, however, that the views of these licensees would be expressed by the various user associations. The Commission is encouraging all parties not afforded the opportunity to participate in the oral presentations to make their views known to scheduled parties which most closely represent their position. In addition, in the interest of complete fairness, the record will remain open until May 25, 1973, in order to permit filing of written comments by parties not afforded time and who feel that their views have not been sufficiently expressed at the oral presentations.

6. Notices have been filed by several hospital and taxicab licensees, and by small business enterprises engaged in the sale, installation, and servicing of land mobile radio systems, and it does not appear that these groups are represented by any of the scheduled parties. Accordingly, we have allotted a period of time to each of these three groups, and we urge them to select one of their number as a spokesman to make the presentations. The name of each spokesman is to be submitted to the Commission at least by May 4, 1973.

7. We have also allotted time for rebuttals. This time has been divided as indicated in the schedule. We expect that a single spokesman for each group would be selected to make the rebuttal presentation. The names of these spokesmen should also be submitted by May 4, 1973. To conclude the rebuttals and the oral presentation we have scheduled an additional 5 minutes each to the American Telephone & Telegraph Co. and Motorola Inc., who have been the major participants in this proceeding to make their final comments.

8. *Accordingly, it is ordered,* That the presentations shall be made before the Commission, en banc, commencing at 9:30 a.m. on May 14, 1973, and concluding on May 15, 1973; and that the parties shall appear and make their presentations in accordance with the schedule for oral presentation set forth in appendix B below; and that the record of the oral presentation shall remain open until May 25, 1973, following the presentations to permit filing of written comments by parties requesting appearance but not scheduled.

Adopted April 11, 1973.

Released April 13, 1973.

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

APPENDIX A—PARTIES WHO FILED REQUESTS TO PARTICIPATE IN ORAL PRESENTATION

Aeronautical Radio, Inc.
Airsignal International, Inc.
Airz-Son Co.
Albany Protective Service
American Beef Packers, Inc.
American Transit Association
American Telephone & Telegraph Co.
Associated Public-Safety Communications Officers, Inc.
Association of Maximum Service Telecasters (for itself and on behalf of National Association of Broadcasters and the National Association of Educational Broadcasters)
Atlanta Cap Co., Inc.
Atlanta Car-For Hire Association
Atlanta Transportation Association Cooperative
Bell & Harden
Blue Ribbon Vending Co.
Boston Cab Co.
B. R. DeWitt, Inc.
Central Committee on Communication Facilities of the American Petroleum Institute
Chicago Communication Service, Inc.
Chicago Transit Authority
C. M. H., Inc.
Columbia Mall, Inc.
Colonial Sand and Stone Co., Inc.
Communications, Inc.
Condit, Paul
Consulting Communications Engineers, Inc.
County Ambulance Service
Courtney, Jeremiah
Crow Pipe and Land Co.
Dallas Transit System
Duncan Realty Co.
Ed Gehm Engineering and Refrigeration Co.

[1] Order, docket 18262, released Mar. 15, 1973 (F.C.C. 73-284), (38 FR 7340).
[2] Order, docket 18262, released Mar. 22, 1973.
[3] Order, docket 18262, released Apr. 14, 1973.
[4] Commissioners Robert E. Lee and H. Rex Lee absent.

Edw. C. Levy Co.
Fillmore Taxi Co.
First National Bank in Dallas
Fort Lauderdale Police Department
Gainesville Industrial Electric
George J. Igel and Company, Inc.
General Electric Co. (Major Appliance Business Group)
General Electric Co. (Mobile Radio Department)
GTE Service Corp.
Henry Ford Hospital
Homes by Byron, Inc.
Integrated Systems Technology, Inc.
International Association of Chiefs of Police
International Bridge, Tunnel, and Turnpike Association
International Municipal Signal Association
John Cardi Construction Co.
Kent State University
Land Mobile Communications Section, Communications and Industrial Electronics Division, Electronic Industries Association
Leonard Amusement Co.
L. E. Myers Co.
Martin Marietta Corp.
Mar Van Equipment
Material Service Corp.
Medeiros, John
Michigan State University
Minor, James Larry
Motorola, Inc.
Mueller Electronics
Mulbarger Twins, Inc.
Nardei Contracting Co., Inc.
Nash Lawn Service
National Association of Business and Educational Radio, Inc.
National Association of Radiotelephone Systems
New Jersey Hospital Association
New York City Transit Authority
Northside Sales Co.
Northwestern Elevator Co., Inc.
Radio Broadcasting Co.
Ram Broadcasting Corp.
RCA Corp.
Ricks Delivery Service
Ross Equipment Co.
Scott Communications Co.
Simpson Engineering Service, Inc.
Southeast Ohio Emergency Medical Service
Special Industrial Radio Service Association, Inc.
Standard Oil Company of Ohio
St. Louis Electronics
Stanley, H. L.
Stewart Brothers, Inc.
Terminal Taxi Co.
Texas Industries, Inc.
Texas Instruments, Inc.
The Magnavox Co.
Transit Mixed Concrete
United States Independent Telephone Association
United Telecommunications, Inc.
University of Michigan
Utilities Telecommunications Council
Wellsback Electric Co.
William Taylor Construction, Inc.
Yale Industrial Trucks of New York
Yellow Cab Co.
6 Flags Over Georgia, Ltd.

APPENDIX B—SCHEDULE FOR ORAL PRESENTATIONS

MONDAY, MAY 14, 1973

Party name:	Allotted time (minutes)
American Telephone & Telegraph Co.	60
United States Independent Telephone Association	10
United Telecommunications, Inc.	10
GTE Service Corp.	10
Integrated Systems, Inc.	10
National Association of Radiotelephone Systems	35
RAM Broadcasting Corp.	5
Radio Broadcasting Co.	5
Airsignal International, Inc.	5
Chicago Communications Service	5
Jeremiah Courtney	5
Electronic Industries Assoc., Land Mobile Comm. Section	20
Motorola, Inc.	60
General Electric (Mobile Radio Dept.)	30
Martin Marietta	20
Magnavox Co.	5
RCA Corp.	5

TUESDAY, MAY 15, 1973

General Electric Co. (Major Appliance Business Group)	20
Association of Maximum Service Telecasters (for itself, and for the National Association of Broadcasters and the National Association of Educational Broadcasters)	15
National Association of Business and Educational Radio, Inc.	20
Associated Public-Safety Communications Officers, Inc.	20
Special Industrial Radio Service Association	10
Utilities Telecommunications Council	10
Central Committee on Communication Facilities of American Petroleum Inst	10
International Municipal Signal Association	10
International Bridge, Tunnel and Turnpike Association	10
American Transit Association	10
Spokesman for: Henry Ford Hospital, New Jersey Hospital Association, and Southeast Ohio Emergency Medical Service	5
Spokesman for: Atlanta Transportation Association, Boston Cab. Co., Terminal Taxi Co., Yellow Cab Company of Greater Buffalo, Inc.	5
Spokesman for: Communications, Inc., Gainesville Industrial Electric Co., Lake Side Communications, Mueller Electronics, Scott Communications Co., and St. Louis Electronics	5
Aeronautical Radio, Inc.	10

REBUTTALS

Spokesman for:	
Wireline common carriers	15
Radio common carriers	15
Land mobile equipment manufacturers	15
Private radio user associations	15
Motorola, Incorporated	5
American Telephone and Telegraph Co	5

[FR Doc.73-7670 Filed 4-19-73;8:45 am]

[47 CFR Parts 89 and 91]

[Docket No. 19721 RM-1998, RM-1799; FCC 73-394]

FORESTRY CONSERVATION COMMUNICATION ASSOCIATION AND UTILITIES TELECOMMUNICATIONS COUNCIL

Notice of Inquiry and Proposed Rulemaking

In the matter of amendment of parts 89 and 91 of the Commission's rules and regulations to permit the use of the vehicular radio units to act as mobile repeaters in the Forestry-Conservation and in the Power Radio Services.

1. Notice is hereby given of inquiry and of proposed rulemaking in the above-entitled matter.

2. The Forestry Conservation Communication Association (FCCA) and the Utilities Telecommunications Council (UTC) have filed separate petitions, to amend respectively parts 89 and 91 of the Commission's rules to permit persons eligible for frequencies allocated in the Forestry-Conservation Radio Service and in the Power Radio Service to use their vehicular radio units as mobile repeaters to relay the transmissions of low-power, hand-carried units to base stations.

3. In June of 1968, the Commission amended its rules in the Police Radio Service to enable police vehicles to act as mobile repeaters for the purpose of relaying messages from low-power hand-carried transceivers, FCC 68-600, 13 FCC 2d 166 (1966). Similar rules were adopted in 1970 to enable firemen at the scene of a fire emergency to transmit messages in the same way, FCC 70-232, 23 FCC 2d 68 (1970). In 1972, the Commission again amended its rules: This time permitting persons eligible in the Business Radio Service, for those frequencies in 460-470 MHz band set-aside for use by the central station commercial protection industry, to use their vehicular radios, as mobile repeaters (RM-1513) FCC 72-415 (1972). As in those instances, the reasons given for these amendments are that, "such an extension of permissible communications will greatly facilitate the effectiveness of personnel and equipments in efforts directed toward the protection of life and property." This is especially true in cases in which personnel and vehicles are operating in dangerous or hazardous environments, such as: forest fires, gas leaks, or downed high tension wires.

4. In order that there may be simultaneous reception and retransmission of the desired signal, this use of a vehicular radio unit as a mobile repeater requires two operational frequencies. Generally, applicants in the Public Safety Radio Services are authorized for a two-frequency operation. In the Industrial Radio Services, and the Forestry-Conservation Radio Service, however, a single frequency assignment is normally made to systems operating in the bands below 450 MHz; an applicant will be authorized for a two-frequency operation only: (1) After he has made a specific showing of need; or (2) if his system is to operate on frequencies above 450 MHz. The UTC and FCCA petitions, therefore, raise an issue not considered in our earlier rulemaking: Should this capability be extended to all licensees who request it, with additional frequencies being assigned where necessary; or should this capability be limited to those situations in which more than one frequency is normally assigned?

5. The Commission has given these petitions careful consideration and proposes to grant the requested rule changes insofar as they apply to licensees with two frequency systems. The Commission

will reserve judgment on single frequency systems until it has received comments from interested parties.

6. Furthermore, in view of the active interest which this type of rule change has engendered, and in order that the Commission may taken comprehensive action after considering all pertinent questions, the Commission requests comments particularly on the following questions:

(a) Are there any other services in parts 89, 91, or 93 which do not have this capability and which feel they require similar rule changes? If so, what are the reasons therefor?

(b) Should vehicular repeater capability be limited to licensees who for other reasons have been assigned more than a single frequency?

(c) Should this relay capability be granted to all land mobile licensees under parts 89, 91, and 93 who request it, and additional frequencies be assigned below 450 MHz for this purpose where necessary?

7. This notice of proposed rulemaking and inquiry is issued pursuant to the authority contained in sections 4(i), 303, and 403 of the Communications Act of 1934, as amended.

8. Pursuant to applicable procedures set forth in section 1.415 of the Commission's rules, interested persons may file comments on or before June 22, 1973, and reply comments on or before July 6, 1973. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by the notice.

9. In accordance with the provision of section 1.419 of the Commission's rules and regulations, the original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C.

Adopted April 11, 1973.

Released April 16, 1973.

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

I. Part 89 of the Commission's rules is amended, as follows:

A. Section 89.12 is amended by adding new paragraph (e) to read:

§ 89.12 Relay, repeater, and control stations.

* * * * *

(e) *Mobile-mobile relay stations.* Mobile stations utilizing mobile service frequencies 25 MHz and above may be used for the purpose of providing extended talk-back range for low-powered hand-carried transmitters in the police and fire services and in Forestry Conservation Radio Service, in instances in which the licensee has more than a single frequency assignment.

(1) Hand-carried transmitters to be automatically relayed by mobile stations may be assigned a separate frequency for this use limited to a maximum power of 2.5 watts output.

(2) Each mobile station, when used for the purpose of automatically retransmitting messages originated by or destined for hand-carried units, shall be so designed and installed that it will be activated only by means of a continuous tone device, the absence of which will deactivate the mobile transmitter. The continuous tone device is not required when the mobile station is equipped with a switch that must be activated to change the mobile unit to the automatic mode and an automatic time delay device to deactivate the transmitter after any uninterrupted period of transmission in excess of 3 minutes.

(3) Mobile stations may also be used to provide extended base station talk out range to pocket or miniature receivers. However, any addition frequencies required for this purpose may not be used with power in excess of 2.5 watts output.

§ 89.307 [Amended]

B. Section 89.307 is amended by deleting paragraph (f) and substituting [Reserved].

§ 89.357 [Amended]

C. Section 89.357 is amended by deleting paragraph (e) and substituting [Reserved].

II. Part 91 of the Commission's rules is amended, as follows: Section 91.7 is amended by adding new paragraph (e) to read:

§ 91.7 Relay and control stations.

* * * * *

(e) *Mobile-mobile relay.* Mobile stations utilizing mobile service frequencies above 25 MHz may be used for the purpose of providing extended talk-back range for low-powered hand-carried transmitters in the power radio service in instances in which the licensee has more than a signal frequency assignment.

(1) Hand-carried transmitters to be automatically relayed by mobile stations may be assigned a separate, additional frequency for this use, but limited to a maximum power output of 2.5 watts.

(2) Each mobile station when used for the purpose of automatically retransmitting messages originated by or destined for hand-carried units shall be so designed and installed that it will be activated only by means of a continuous tone device, the absence of which will deactivate the mobile transmitter. The continuous tone device is not required when the mobile station is equipped with a switch that must be activated to change the mobile unit to the automatic mode and an automatic time delay device to de-activate the transmitter after an uninterrupted period of transmission in excess of 3 minutes.

(3) Mobile stations may also be used to provide extended base station talk out range to pocket or miniature receivers, however, any additional frequencies required for this purpose may not be used with power in excess of 2.5 watts.

[FR Doc.73-7671 Filed 4-19-73;8:45 am]

[47 CFR Part 73]

[Docket No. 19720; FCC 73-391]

FM BROADCAST STATIONS IN TUPELO, MISS.

Proposed Table of Assignments

In the matter of amendment of § 73.202(b), *table of assignments*, FM broadcast stations. (Tupelo, Miss.), docket No. 19720, RM-1915.

1. On January 31, 1972, James L. Jumper, doing business as Town 'N Country Broadcasting Co. (Town 'N Country), permittee of a proposed daytime-only standard station at Tupelo, Miss., filed a petition with this Commission requesting the assignment of FM channel 240A to Tupelo, Miss. No other changes in our FM table of assignments were requested or proposed. Tupelo Broadcasting Co., Inc. (Tupelo Broadcasting), licensee of WELO-FM operating on class C channel 253 and standard broadcast Station WELO, both at Tupelo, filed a timely opposition to the petition.

2. Tupelo, Miss., with its population of 20,471,[1] is the seat of Lee County which contains 46,148 residents. The only FM assignment in Tupelo is channel 253, licensed to Tupelo Broadcasting. There are two standard broadcast stations presently operating in Tupelo, WTUP, licensed to Lee Broadcasting Corp., and WELO licensed to Tupelo Broadcasting. A construction permit (BP-17986) is held by petitioner for a daytime-only AM service to the community.

3. The petition of Town 'N Country, which is quite brief, gives us the following facts concerning Tupelo:

> In the past 10 years Tupelo has become the cultural, industrial and trade center for northeast Mississippi with a distinct character different from the other parts of the State of Mississippi. It is the hub for major Federal highways, U.S. Highway 45 running north and south to New Orleans and Mobile; and U.S. Highway 78 running between Memphis and Birmingham. The city is also served by airlines and air taxi service providing a focal starting point for air passenger service in this part of the State.

Noting that the existing FM service in Tupelo is provided by a class C station, Town 'N Country states that although it would prefer a class C channel, such a channel is not available for assignment to Tupelo. Accordingly, it specifically requests the assignment of channel 240A, on which it proposes to establish an FM broadcast service if authorized to do so, notwithstanding the competition it expects from the existing FM station.

4. Tupelo Broadcasting, a licensee of a standard and FM radio service in Tupelo supra, opposes the proposed assignment primarily on two grounds: First, it points

[1] All population figures cited are from the 1970 U.S. census unless otherwise specified.

out that it is the policy of this Commission not to intermix classes of channels in one community; second, it disagrees with petitioner and maintains that the community of Tupelo is not necessarily large enough to warrant a second FM channel assignment.

5. We observe that under the Commission's general FM assignment policy Tupelo, a city of 20,471 persons, is large enough to warrant consideration as a community which may be entitled to two FM local services. Tupelo Broadcasting is correct when it states that the Commission normally attempts to avoid the intermixture of classes of FM channels in any one community. The purpose of such a policy is to attempt to make all FM services in any one community approximately equal from the technical view and to avoid making class A assignments which could lie fallow, because of their coverage limitations, if located in a community with a class C service. In this instance, petitioner, with full knowledge before it of the existence of a class C FM service in Tupelo, has averred to this Commission that it would promptly file an application for use of channel 240A if it is assigned to Tupelo.

6. Our engineering examination indicates that the proposed assignment of channel 240A to Tupelo would preclude future assignments only on channel 240A. No preclusion would occur on the six adjacent channels. The only significant community which does not have a local radio service located within the precluded area where a channel could be assigned is Baldwyn, Miss. (population 2,366). Booneville, Miss. (population 5,895), is also located in the precluded area. It has a class IV AM station and an FM assignment (257A) which has no application pending for its use.

7. Considering the foregoing, we believe that it is in the public interest to explore petitioner's proposal to assign channel 240A to Tupelo, Miss.,[2] and propose for consideration the following revision in the FM table of assignments (§ 73.202(b) of our rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Tupelo, Miss.	253	240A, 253

8. Authority for the action proposed herein is contained in sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended.

9. *Showings required.*—Comments are invited on the proposal discussed and set forth above. Proponents of the proposed assignment are expected to file comments showing the need of Tupelo for the proposed assignment and discussion its merits in light of its preclusion of an FM assignment at Baldwyn, Miss. Such a discussion should indicate whether other channels than 240A are available for assignment to Baldwyn and if not, should comment on the possible assignment of channel 240A to Baldwyn. Proponents should also restate their present intentions to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

10. *Cutoff procedures.*—The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rulemaking which conflict with the proposal in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

11. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before May 24, 1973; and reply comments on or before June 4, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

12. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

13. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street NW).

Adopted April 11, 1973.

Released April 16, 1973.

FEDERAL COMMUNICATIONS COMMISSION.[3]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.73-7672 Filed 4-19-73;8:45 am]

[2] The transmitter site for such an assignment must be located at least 5 miles northwest of Tupelo in order to meet our spacing requirements as to WUOA (channel 239) located at Tuscaloosa, Ala.

[3] Commissioner Robert E. Lee absent.

[47 CFR—Part 81]

[Docket No. 19719; FCC 73-383]

CLASS II PUBLIC COAST STATIONS

Duplication of Service; Deletion

Amendment of part 81 of the rules to delete requirements that class II public coast stations in the maritime service apply for or provide very high frequency (VHF) service, docket No. 19719.

1. Notice of Proposed Rulemaking in the above entitled matter is hereby given.

2. Sections 81.303(c) and 81.304(e) of our rules contain provisions intended, essentially, to insure that class II (regional) public coast stations in the maritime services, operating on medium or high radiotelephony frequencies, also provide public correspondence service in the very high frequency (156–162 MHz) maritime band. Service in the very high frequency (VHF) band is ordinarily provided by class III (local) public coast stations.

3. Section 81.303(c) of the rules provides that in the case of class II stations, applicants shall also provide VHF service unless waived where such service already exists, and § 81.304(e) provides that the frequencies below 4,000 kHz will not be available to class II stations after January 1, 1977, unless the stations apply for and if granted provide VHF service. In paragraph 45 of the First Report and Order in docket No. 18307, released June 16, 1970 (FCC 70-608 and 35 FR 10212), we discussed the requirements of these two rule sections[1] and urged existing class II stations to apply for VHF authorizations prior to January 1, 1972, at which time they were required elsewhere in the rules to convert from double sideband to single sideband operation. In that paragraph we stated, as a matter of general policy, that in processing the applications by class II stations for VHF authorizations account would be taken of existing VHF public coast facilities only to the extent that electrical interference would be caused to existing VHF service. This policy, in some cases, imposed an unwanted requirement on class II stations but placed them in a preferential position when applying for VHF authorizations as compared to other applicants who ordinarily must show that their applications meet our criteria with respect to nonduplication of service.

4. These rule provisions and this policy were adopted at a time when VHF maritime public correspondence service was inadequate and being developed, and we were interested in the expansion of the service and maximum coverage in the public interest. Since that time, however, conditions have changed and the service has grown significantly. Many new VHF stations have been authorized or applied for and we believe there are few, if any, principal navigable waters of the United States, especially near class II stations, where reasonably adequate service is not now available or will be well before 1977. In view of this growth of VHF service, we believe the requirements that class II stations must also provide VHF service as a condition to new or continued operation on lower frequencies can be terminated. Additionally, we believe that applications for VHF authorizations by existing or proposed class II stations should be subjected to the same considerations concerning duplication of service as apply to other applicants, as now specified in our rules following recent rule changes in dockets

[1] Paragraph 45 and the appendix of the First Report and Order in docket No. 18307 refer to § 81.304(c)(2) of the rules. The provisions of that rule section are now relocated in § 81.304(e) of the rules.

18944 (criteria for determining coverage areas), and 19360 (duplication of service and assignment of frequencies to coast stations in the maritime service).

5. The new rules will be applicable to all pending applications which are on file or in hearing status on the effective date of the rules as well as those applications filed after the effective date.

6. The proposed amendment to the rules, as set forth below, is issued pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 24, 1973 and reply comments on or before June 4, 1973. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

8. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's broadcast and docket reference room at its headquarters in Washington, D.C.

Adopted April 11, 1973.

Released April 16, 1973.

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

Part 81 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

1. Section 81.303(c) is amended as follows:

§ 81.303 Duplication of service.

* * * * *

(c) Only one public coast station operating on frequencies below 27,500 kHz will be authorized to serve any area whose ship-shore communication needs can be adequately served by a single radio communication facility.

2. Section 81.304(e) is deleted and reserved.

§ 81.304 Frequencies available.

* * * * *

(e) [Reserved].

* * * * *

[FR Doc.73-7673 Filed 4-19-73;8:45 am]

VETERANS ADMINISTRATION

[41 CFR Part 8-7]

CLAUSES FOR FIXED-PRICE CONSTRUCTION CONTRACTS

Proposed Regulatory Development

The Veterans Administration proposes regulatory revision of § 8-7.650, Title 41, Code of Federal Regulations, to revise a clause currently prescribed for fixed-price construction contracts in excess of $10,000.

Interested persons are invited to submit written comments, suggestions, or objections regarding these proposals to the Administrator of Veterans Affairs (232H), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before May 21, 1973, will be considered. All comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make these regulatory changes effective April 20, 1973.

It is proposed to revise § 8-7.650-14 to read as follows:

§ 8-7.650-14 Payments to contractors.

(a) For contracts that do not contain a section entitled "Network Analysis System (NAS), Clause 7, General Provisions, SF 23A," will be implemented as follows:

PAYMENTS TO CONTRACTORS

Clause 7, General Provisions, SF 23A, is implemented as follows:

(a) The contractor shall submit a schedule of cost to the contracting officer for approval. Such schedule will be signed and submitted in quadruplicate. The approved cost schedule will be one of the bases for determining progress payments to the contractor for work completed. This schedule shall show cost by the branches of work for each building or unit of the contract, as instructed by the resident engineer.

(1) The branches shall be subdivided into as many subbranches as are necessary to cover all component parts of the contract work.

(2) Costs as shown by this schedule must be true costs and, should the resident engineer so desire, he may require the contractor to submit his original estimate sheets or other information to substantiate detail makeup of schedule.

(3) The sum of subbranches, as applied to each branch, shall equal the total cost of such branch. The total costs of all branches shall equal the contract price.

(4) Bonds, insurance and similar items shall be prorated and included in the cost of each branch of the work.

(5) The cost schedule shall include separate cost information for the systems listed below. The percentages listed below are proportions of the cost listed in contractor's cost schedule and identify, for payment purposes, the value of the work to adjust, correct and test systems after the material has been installed. Funds retained as contract work progresses will at all times be sufficient to cover the value of the work of adjusting, correcting and testing the systems listed below. Payment of the listed percentages will be made only after the contractor has demonstrated that each of the systems is substantially complete and operates as required by the contract.

	Value of adjusting, correcting, and testing system (percent)
System:	
Pneumatic tube system	10
Incinerators (medical waste and trash)	5
Sewage treatment plant equipment	5
Water treatment plant equipment	5
Washers (dish, cage, glass, etc.)	5
Sterilizing equipment	5
Water distilling equipment	5
Prefab temperature rooms (cold, constant temperature)	5
Entire air-conditioning system specified under 600 sections	5
Entire boiler plant system specified under 700 sections	5
General supply conveyors	10
Food service conveyors	10
Pneumatic soiled linen and trash system	10
Elevators	10
Engine-generator system	5
Primary switchgear	5
Secondary switchgear	5
Fire alarm system	5
Nurse call system	5
Intercom system	5
Radio system	5
TV (entertainment) system	5

(b) In addition to this cost schedule, the contractor shall submit such unit costs as may be specifically requested. The unit costs shall be those used by the contractor in preparing his bid and will not be binding as pertaining to any contract changes.

(c) The Government reserves the right to withhold payment until samples, shop drawings, engineer's certificates, additional bonds, payrolls, weekly statements of compliance, nondiscrimination compliance reports, or any other things required by this contract, have been submitted to the satisfaction of the contracting officer.

(d) As a part of final settlement of this contract, the contractor will be required to furnish a release of claims to the Government.

(b) For contracts that contain a section entitled "Network Analysis System (NAS), Clause 7, General Provisions, SF 23A," will be implemented as follows:

PAYMENTS TO CONTRACTORS

Clause 7, General Provisions, SF 23A, is implemented as follows:

(a) The contractor shall submit a schedule of costs in accordance with requirements of section NAS (network analysis system) to the contracting officer for approval. The approved cost schedule will be one of the bases for determining progress payments to the contractor for work completed.

(1) Costs as shown on this schedule must be true costs and, should the resident engineer so desire, he may require the contractor to submit his original estimate sheets or other information to substantiate the detailed makeup of the cost schedule.

(2) The total costs of all activities shall equal the contract price.

(3) Bonds, insurance and similar items shall be prorated and included in each activity cost of the critical path method (CPM) network.

(4) The CPM network shall include a separate cost loaded activity for adjusting and testing of the systems listed below. The percentages listed below will be used to determine the cost of adjust and test activities and identify, for payment purposes, the value of the work to adjust, correct and test systems after the material has been installed.

[1] Commissioner Robert E. Lee absent.

(5) Funds retained as contract work progresses will at all times be sufficient to cover the value for the work of adjusting, correcting and testing the systems listed below. Payment for adjust and test activities will be made only after the contractor has demonstrated that each of the systems is substantially complete and operates as required by the contract.

System:	*Value of adjusting, correcting, and testing system (percent)*
Pneumatic tube system	10
Incinerators (medical waste and trash)	5
Sewage treatment plant equipment	5
Water treatment plant equipment	5
Washers (dish, cage, glass, etc.)	5
Sterilizing equipment	5
Water distilling equipment	5
Prefab temperature rooms (cold, constant temperature)	5
Entire air-conditioning system specified under 600 sections	5
Entire boiler plant system specified under 700 sections	5
General supply conveyors	10
Food service conveyors	10
Pneumatic soiled linen and trash system	10
Elevators	10
Engine-generator system	5
Primary switchgear	5
Secondary switchgear	5
Fire alarm system	5
Nurse call system	5
Intercom system	5
Radio system	5
TV (entertainment) system	5

(b) In addition to this cost schedule, the contractor shall submit such unit costs as may be specifically requested. The unit costs shall be those used by the contractor in preparing his bid and will not be binding as pertaining to any contract changes.

(c) The Government reserves the right to withhold payment until samples, shop drawings, engineer's certificates, additional bonds, payrolls, weekly statements of compliance, nondiscrimination compliance reports, or any other things required by this contract, have been submitted to the satisfaction of the contracting officer.

(d) As a part of final settlement of this contract, the contractor will be required to furnish a release of claims to the Government.

By direction of the Administrator.

Approved April 16, 1973.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.73-7624 Filed 4-19-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Notice of Meeting

Pursuant to Executive Order 11686 and the provisions of section 10(a), Public Law 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held from 9:30 a.m. to 4:30 p.m. on April 30 and from 9:30 a.m. to 12 noon on May 1, 1973, at the State Department, New State Building, 21st and Virginia Avenue NW., room 5951.

The purpose of the meeting is to continue discussion of the role of voluntary agencies in the 1970's, and consider other matters related to the foreign assistance activities of voluntary agencies.

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.

Dr. Jarold A. Kieffer is the AID representative at the meeting. Information concerning the meeting may be obtained from Mr. Robert S. McClusky, telephone 632-0802. Persons desiring to attend the meeting should enter the New State Building through the 21st Street entrance.

Dated April 13, 1973.

JAROLD A. KIEFFER,
Assistant Administrator for Population and Humanitarian Assistance.

AGENDA

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Room 5951, New State Building

April 30, 1973: 9:30 a.m. to 4:30 p.m.
May 1, 1973: 9:30 a.m. to 12 noon
Chairman: Miss Margaret Hickey

April 30, 1973:		
9:30-11 a.m.	Discussion of the Draft Report on the Role of Voluntary Agencies in the 70s.	Miss Margaret Hickey.
11-11:15 a.m.	Coffee break.	
11:15-12:30 p.m.	Discussion of the Draft Report on the Role of Voluntary Agencies in the 70s.	Do.
12:45-2 p.m.	Lunch.	
2:15-4:30 p.m.	Discussion of the Draft Report.	Do.
May 1, 1973:		
9:30-10:45 a.m.	Discussion of the Draft Report on the Role of Voluntary Agencies in the 70s.	Do.
10:45-11 a.m.	Break.	
11-12 noon	Discussion of the Draft Report. Other Matters. Time and Place of Next Meeting.	Do.

[FR Doc.73-7602 Filed 4-19-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA

Call for Nominations of Areas for Oil and Gas Leasing

Pursuant to the authority prescribed in 43 CFR 3301.3 (1972), nominations are hereby requested for areas in the Outer Continental Shelf off the State of Louisiana for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343 (1970)). Nominations will be considered for any or all of the following mapped areas off Louisiana:

1. All that area shown on the set of "Outer Continental Shelf Leasing Maps—Louisiana" consisting of 26 maps the last of which was dated January 18, 1972; and

2. All that area described as follows:

a. Seaward of all that area shown on the set of 26 "Outer Continental Shelf Leasing Maps—Louisiana,"

b. Landward of the 600-meter-depth contour shown on map "Mobile South No. 1 (NH-16-7)," revised February 15, 1973, and on four new maps made available as of the date of this notice ("Mobile South No. 2 (NH-16-10)," "New Orleans (NH-15-12)," "New Orleans South No. 1 (NG-15-3)," and "Garden Banks (NG-15-2)"),

c. West of the east boundary of "Mobile South No. 1 Leasing Map (NH-16-7)," revised February 15, 1973, (approximate long. 87°46.4' W.), and

d. East of the east boundary of the E96 range of blocks, "Garden Banks Leasing Map (NG-15-2)" (approximate long. 93°22.2' W.).

Copies of each map may be purchased for $1 from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, suite 3200, the Plaza Tower, 1001 Howard Avenue, New Orleans, La. 70113, or the Director, Eastern States Office, 7981 Eastern Avenue, Silver Spring, Md. 20910.

All nominations must be described in accordance with the Outer Continental Shelf leasing maps prepared by the Bureau of Land Management, Department of the Interior, and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one-quarter of a block, may be nominated.

Nominations must be submitted not later than June 18, 1973, in envelopes marked "Nominations of Tracts for Leasing in the Outer Continental Shelf—Louisiana." The nominations must be submitted to the Director, attention (390), Bureau of Land Management, Washington, D.C. 20240. Copies of nominations must be sent to the Manager, New Orleans Outer Continental Shelf Office, at his address cited above and to the Area Oil and Gas Supervisor, Geological Survey, suite 336, Imperial Office Building, 3301 North Causeway Boulevard, Metairie, La. 70002.

Tracts will be selected for competitive bidding pursuant to established departmental procedures and only after compliance with all requirments of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347 (1970)). Notice of any tracts selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Nothing contained in this call for nominations or in the issuance of new leasing maps should be interpreted as being inconsistent with the President's oceans policy statement of May 23, 1970, relating to offshore development beyond the 200-meter-depth contour. Leases ultimately issued beyond 200 meters will be subject to the international regime to be agreed upon.

BURT SILCOCK,
Director,
Bureau of Land Management.

Approved April 18, 1973.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.73-7834 Filed 4-19-73;8:45 am]

National Park Service

OLYMPIC NATIONAL PARK

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5, of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on May 10, 1973, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with La Push Ocean Park, Inc., authorizing it to provide concession facilities and services for the public at Olympic National Park, for a period of 10 years from January 1, 1973, through December 31, 1982.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before May 10, 1973.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated April 11, 1973.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.73-7591 Filed 4-19-73;8:45 am]

Oil Import Appeals Board

INFORMATION REQUESTED BY THE BOARD FROM PETITIONERS

Notice to Petitioners

Notice is hereby given to petitioners to the Oil Import Appeals Board that filings which are not in conformance with Board rules because they are not supported by specific and complete, relevant information, cannot be considered and will be rejected. Notice is also given to petitioners who seek relief without a hearing that unless they file sufficient data to enable the Board to make a complete evaluation of the request, their petitions will not be considered.

Revised Board rules which specify minimum requirements for the filing of a petition were published in the FEDERAL REGISTER on January 29, 1973 (38 FR 2684–2686). Docketing of petitions is conditioned upon full compliance with these requirements. Telegrams and general statements of urgent problems are not proper petitions, and they will not be acted upon as petitions.

The number of petitions to the Board, in particular those requesting allocations to import gasoline, has recently increased significantly. The increase reflects current shortages or distribution imbalances which have a varying impact on petitioners. Most urge immediate action by the Board to alleviate critical supply problems.

The Board has recognized the need for timely relief and has taken interim action in those situations where data before it have been sufficient to permit such action. However, there are instances where the record has been inadequate and the Board has either had to seek additional information or make no decision. This is unsatisfactory to the petitioners concerned, and it adds further to the large workload before the Board. Whether considering interim or final action, the Board continues to require specific and complete information to permit objective measurement of the hardship alleged.

The Board does not desire to place burdensome requirements upon petitioners but seeks their cooperation and assistance in order that the Board may continue to process all petitions fairly and efficiently. To assist petitioners in furnishing essential information to support the actions requested by them, the Board has devised questionnaires which outline the minimum information required by the rules to be supplied by petitioners for crude oil import allocations and by petitioners for finished product import allocations. The text of the questionnaires accompanies this notice. Copies of the questionnaires may be obtained from the Board (address: Oil Import Appeals Board, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va. 22203).

A request for interim relief, or relief without a hearing, may be justified in some cases. However, if such relief is requested, it is the petitioner's responsibility to insure that the Board file contains sufficient data to permit consideration without inquiry or a hearing; if it does not, the request will not be considered, but will be rejected. The minimum information is that required by the rules and that asked for in the questionnaire (crude oil or finished product, as applicable) accompanying this notice.

In general, petitioners are reminded that if complete information is provided, they may, when appropriate, expedite final decisions by waiving a hearing and requesting a decision on the record.

Dated April 9, 1973.

JAMES M. DAY,
Acting Chairman,
Oil Import Appeals Board.

INFORMATION REQUESTED BY THE OIL IMPORT APPEALS BOARD TO BE SUPPLIED BY PETITIONERS FOR CRUDE OIL IMPORT ALLOCATIONS

In order to process petitions for crude oil import allocations the Board requires the data and information set forth below.

Submit six copies of the response, identifying each item by the number and precise heading appearing on these sheets. Make attachments if necessary.

1. Name of petitioner and address of principal office.

2. State company ownership. (If petitioner is not a sole proprietorship, list all companies, individuals or stockholders possessing 10 percent or more of company ownership or stock.)

3. List all domestic subsidiaries and affiliates, if any, in which petitioner holds an interest of 15 percent or more.

4. Location and rated capacity of each refinery owned or controlled by petitioner.

5. Average daily inputs of each refinery listed in item 4 above: (a) Of crude oil and (b) of other raw materials, in each month of each of the last 2 calendar years.

6. From data given in response to item 5 above, calculate and set out the total daily average inputs of all refineries listed (a) of crude oil and (b) of other raw materials, during each of the last 2 calendar years.

7. The volume of crude oil import allocations received by your company in the current year and in each of the 2 preceding years:

(a) From the Office of Oil and Gas or Oil Import Administration.

(b) From the Oil Import Appeals Board.

8. The approximate product yields (as percentage of total production) at each refinery listed in item 4 above during 2 preceding years.

9. The number of retail outlets which distributed products under a trade name owned or controlled by your company and the total quantity of gasoline you supplied to them (a) this year and (b) last year.

10. The percentage of your total production of (a) gasoline, (b) No. 2 fuel oil, and (c) residual fuel oil which you sold to independent marketers during the last calendar year.

11. The quantities of (a) gasoline, (b) No. 2 fuel oil, (c) residual fuel oil, and (d) other products which you sold to, or exchanged for crude oil with, any other petroleum refining company during the last calendar year.

12. Your prospective suppliers for the current calendar year and quantities committed or expected pursuant to:

(a) Long-term contracts (6 months or longer).

(b) Short-term or evergreen contracts.

(c) Spot purchases.

13. Your suppliers, and quantities received from each, in each of the 2 last calendar years pursuant to:

(a) Long-term contracts (6 months or longer).

(b) Short-term or evergreen contracts.

(c) Spot purchases.

14. Net after-tax profits or losses of your company in each of the last 3 calendar or fiscal years.

15. A brief description of ownership participation of your company in crude oil pipelines (including gathering systems) and in inland water transportation equipment.

16. Capacity of crude oil storage facilities at each refinery listed in item 4 above.

17. Crude inventory at each refinery listed in item 4 above at the time of filing of the petition.

The undersigned certifies that the above data and information are true and complete to the best of his knowledge and belief.

INFORMATION REQUESTED BY THE OIL IMPORT APPEALS BOARD TO BE SUPPLIED BY PETITIONERS FOR FINISHED PRODUCT IMPORT ALLOCATIONS

In order to process petitions the Board needs the information set forth below.

Submit six copies of the information, identifying each item by the number and precise heading appearing on these sheets. Make attachments if necessary.

1. Complete address and name of petitioner.

2. State company ownership. (If petitioner is not a sole proprietorship, list all companies, individuals, or stockholders possessing 10 percent or more of company ownership or stock.)

3. List all domestic subsidiaries and affiliates, if any, in which petitioner holds an interest of 15 percent or more.

4. District(s) of affected operations.

5. Nature of business (wholesale, retail, etc.). (State percentage of total

dollar volume of gross income accounted for by product which is subject of petition. Also, list other products sold and/or services rendered as percentage of gross income.)

(What percentage of sales are made (a) to unaffiliated resellers, (b) to industrial and institutional customers, and (c) to motorists and homeowners.)

6. State your gross sales record of subject product (quantity and dollars) for each of the last 4 calendar years: (Estimate where appropriate).

Calendar year	Quantity		Dollars
	Gallons	Barrels	

If you sell to unaffiliated resellers, state separately, as an extract of the above figures, your quantity and dollar volume of such sales.

7. List your prospective supplier(s) of the subject product for the current allocation period, the quantities offered or expected, and the delivered price:

Supplier	Quantity		Delivered price per gallon
	Gallons	Barrels	

Indicate which of the above supplies are subject to (a) long-term contracts (6 months or longer), (b) short-term or evergreen contracts, and (c) spot purchases.

8. List your supplier(s) of the subject product in each of the last 3 years, the quantity supplied, and delivered price:

Calendar year	Supplier	Quantity supplied		Delivered price per gallon
		Gallons	Barrels	

9. List all supplier(s) contacted for subject product, for the current calendar year, that did not offer any product, or offered it at a noncompetitive price:

Supplier	Quantity offered		Delivered price per gallon
	Gallons	Barrels	

10. State, in dollars, petitioner's net after-tax profit or loss record for each of the last 3 calendar years, and an estimate of such profit or loss for the current calendar year:

Calendar year	Subject product	All other products	Total

11. State your average selling price (per gallon) for subject product in each of the last 2 calendar years and in the current year:

Calendar year	Average price

12. State your operating costs (per gallon) for subject product and other products for each of the last 3 calendar years, and an estimate of such costs for the current year. Give detailed breakdown of subject product operating cost:

Calendar year	Subject product	All other products

13. State your inventory for the subject product, in gallons and barrels, on the last day of December of each of the last 3 years:

Calendar Year	Inventory	
	Barrels	Gallons

14. Give list and description of relevant facilities used in marketing of subject product, including storage and transportation facilities.

The undersigned certifies that the above figures and statements are true and accurate to the best of his knowledge and belief.

[FR Doc.73-7798 Filed 4-18-73;2:48 pm]

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

COMMITTEE OF NINE

Notice of Meeting

The committee of nine, representing the State agricultural experiment station directors, will meet April 25–26, 1973, at 8:30 a.m. each day in room 509, Administration Building, U.S. Department of Agriculture, 14th and Independence Ave., Washington, D.C.

The meeting is open to the public. Interested persons also may file a written statement with the recording secretary, committee of nine, Cooperative State Research Service, U.S. Department of Agriculture, Washington, D.C. 20250.

The committee will evaluate and recommend proposals for cooperative research on problems that concern agriculture and prepare suggestions for allocation of research funds.

The names of committee members and agenda are available upon request to the recording secretary.

R. L. Lovvorn,
Administrator.

[FR Doc.73-7701 Filed 4-19-73;8:45 am]

Federal Crop Insurance Corporation

[Notice No. 69]

TOBACCO—TYPE 13 IN NORTH CAROLINA

Extension of the Closing Date for Filing of Applications for the 1973 Crop Year

Pursuant to the authority contained in § 401.103 of title 7 of the Code of Federal Regulations, the time for filing applications for tobacco crop insurance for the 1973 crop year on Type 13 tobacco in the North Carolina counties listed below is hereby extended until the close of business on April 30, 1973. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

North Carolina

Bladen	Hoke
Brunswick	Robeson
Columbus	Scotland
Cumberland	

[SEAL] D. W. McElwrath,
Acting Manager,
Federal Crop Insurance Corporation.

[FR Doc.73-7606 Filed 4-19-73;8:45 am]

Forest Service

SALMON RIVER ADVISORY COMMITTEE

Notice of Meeting

The Salmon River Advisory Committee will meet at 9 a.m., m.s.t., in the conference room of the Payette National Forest Supervisor's Office, McCall, Idaho, on April 28, 1973.

The purpose of the meeting will be to review public input concerning the Salmon River study under the National Wild and Scenic Rivers Act and to obtain advice from the Committee on a management proposal for the Salmon River and adjacent lands from North Fork, Idaho, to the Snake River.

The committee has established rules for public participation as follows:

1. The meeting shall be open to the public.

2. The public shall be permitted to file written statements with the Committee prior to 12 noon, m.s.t., on April 28, 1973.

3. Discussion and debate between members of the public and the committee shall not be considered within the scope of the meeting.

Dated April 12, 1973.

Robert E. Newcomer,
Acting Forest Supervisor,
Payette National Forest.

[FR Doc.73-7590 Filed 4-19-73;8:45 am]

Packers and Stockyards Administration

JONES LIVESTOCK SALES ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the act, as amended (7

U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility number, name, and location of stockyard	*Date of posting*
IOWA	
IA – 245 — Jones Livestock Sales, Spencer.	Feb. 22, 1973
KANSAS	
KS – 198 — Arkansas Valley Community Sale, Wichita.	Mar. 22, 1973
MISSOURI	
MO–230—Southwest Missouri Livestock Assn., Sarcoxie.	Mar. 15, 1973
NEW YORK	
NY – 153 — Smitty's Sales, Weedsport.	Nov. 1, 1972
SOUTH DAKOTA	
SD – 160 — Presho Livestock Auction Company, Presho.	Mar. 13, 1973

Done at Washington, D.C., this 16th day of April 1973.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.73–7702 Filed 4–19–73;8:45 am]

Soil Conservation Service

FALL CREEK WATERSHED PROJECT, IND.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Fall Creek watershed project, Warren County, Ind., USDA–SCS–ES–WS–(ADM)–73–52(D).

The environmental statement concerns a plan for conservation land treatment measures, and structural measures consisting of one multiple-purpose reservoir for flood prevention and public recreation with associated recreation facilities, and 150 feet of local streambank protection using riprap on side slope.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, Atkinson Square West, suite 2200, 5610 Crawfordsville Road, Indianapolis, Ind. 46224.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please use name and number of statement above when ordering. The estimated cost is $3.25.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Cletus J. Gillman, State Conservationist, Soil Conservation Service, Atkinson Square West, suite 2200, 5610 Crawfordsville Road, Indianapolis, Ind. 46224.

Comments must be received on or before June 11, 1973, in order to be considered in the preparation of the final environmental statement.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

APRIL 13, 1973.

[FR Doc.73–7607 Filed 4–19–73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S–341]

AMERICAN STEAMSHIP CO.

Notice of Application

Notice is hereby given that American Steamship Company has filed an application for extension of its experimental operating-differential subsidy agreement, contract No. MA/MSB–137 for an additional two navigating seasons beyond the close of the 1973 season. American Steamship Company's operating-differential subsidy agreement which terminates by its own terms at the end of the 1973 navigating season unless extended, covers approximately eight U.S.-flag ships, but aggregating for each year of the contract not more than 1 ship year (about 260 days) of subsidized operating time in the carriage of dry cargoes in United States foreign commerce between any and all U.S. ports on the Great Lakes, connecting rivers and St. Lawrence River and Canadian ports on the Great Lakes, connecting rivers, St. Lawrence River and Gulf of St. Lawrence.

American Steamship Company proposes to continue to use vessels it owns or charters including those of its subsidiaries in the above trades. The combined part-time employment of these vessels in subsidized operations will not exceed during each year of the contract the equivalent in time of 1 ship year in the foreign commerce of the United States.

Any party having an interest in such application for extension of American Steamship Company's operating-differential subsidy contract and who would contest a finding of the Board that the service now provided by vessels of U.S. registry in the carriage of dry bulk cargo tonnage moving in the foreign commerce of the United States in the above described areas is inadequate, must, on or before April 30, 1973, notify the Secretary in writing of his interest and of his position and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a section 605(c) hearing is ordered to be held, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for the transportation of dry bulk cargo tonnage in the above described areas in the foreign commerce of the United States is inadequate and whether in the accomplishment of the purposes and policy of the act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated April 17, 1973.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73–7704 Filed 4–19–73;8:45 am]

National Oceanic and Atmospheric Administration

[Docket No. C–330]

FRANK V. POMILIA AND ELLA M. POMILIA

Notice of Application for Transfer of Fishery

APRIL 13, 1973.

Frank V. Pomilia and Ella M. Pomilia, 74 Crestline Drive, apartment No. 2, San Francisco Calif. 94131, owners of the vessel *Warlock*, purchased with the aid of a loan from the fisheries loan fund to engage in the fishery for salmon, crab, and albacore have requested permission to extend their fishing operations to engage in the fishery for salmon, crab, albacore, and bottomfish.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, "Fisheries Loan Fund Procedures" (50 CFR part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, on or before May 21, 1973. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JOSEPH A. SLAVIN,
Acting Director.

[FR Doc.73–7612 Filed 4–19–73;8:45 am]

Office of Import Programs

DREXEL UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00042-65-46070. Applicant: Drexel University, Department of Metallurgical Engineering, 32d and Chestnut Streets, Philadelphia, Pa. 19104. Article: Scanning electron microscope, model JSM-2. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used in studies of the structure-property relationship of metals and alloys, ceramics, and polymers. In particular, examination of the initiation and propagation of fracture in processing and service conditions (limits of deformation of powder materials; failure of composite materials; degradation of polymers). Educational uses include training junior and senior students in electron microscopy techniques. Comments: No comments have been received with respect to this application. A letter dated December 8, 1971, from Advanced Metals Research Corp. (AMR), Burlington, Mass., which was received after expiration of the period for comments is being treated as an offer to provide additional information in accordance with § 701.10(a) of the regulations. In this letter, AMR alleged inter alia that its AMR 900 "provides a domestic source for * * * (scanning electron microscopes) which is fully competitive, if not superior to * * * (the foreign article) in the areas of scientific capability, routine performance, availabilities of accessories, etc." Decison: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (May 2, 1969).

Reasons: This application is a resubmission of dockets Nos. 69-00652-65-46070 and 70-00657-65-46070 which were denied without prejudice to resubmission on January 30, 1970, and April 26, 1971, respectively, due to informational deficiencies. The foreign article provides a goniometer stage maintaining tilt axis coincident with optic axis and a specimen air lock system. Published specifications of domestic scanning electron microscopes available at the time the article was ordered do not indicate similar capabilities. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated January 28, 1972, that the capabilities described above are pertinent (within the meaning of § 701.2(n) of the regulations) to the purposes for which the article is intended to be used. The Department of Commerce has received correspondence from AMR (letters dated Aug. 24, 1970) and Philips Electronic Instruments (letter dated July 20, 1970) indicating that the AMR 900 was not available at the time the foreign article was ordered. Moreover AMR did not comment on the applicant's two prior applications for duty-free entry. HEW also advised that it knows of no domestic instrument, that was available at the time of purchase, of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-7614 Filed 4-19-73;8:45 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00271-01-19000. Applicant: University of California, Molecular Biology and Virus Laboratory, room 229, Stanley Hall, Berkeley, Calif. 94720. Article: Digital precision density meter DMA 02 C. Manufacturer: Anton Paar K. G., Austria. Intended use of article: The article is intended to be used for research on the mechanism of action of the regulatory enzyme, aspartate transcarbamylase, which involves ultracentrifuge studies which provide valuable information about the structure and function of this enzyme in metabolic control. Rapid and precise measurements of high precision of various types of nucleic acids, enzymes, and structural proteins, and a variety of viruses will also be carried out. The article will also be used for various laboratory courses—Molecular Biology Laboratory (201) and Techniques in Animal Cell Culture (Molecular Biology 241)—to teach modern laboratory techniques used in the study of viruses and control of regulation. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article measures densities over a continuous range of 0-3 grams/cubic centimeter (g/cm^3) and has an accuracy of 1.5×10^{-4} in a 0.05 g/cm^3 range. The most closely comparable domestic instrument, the model 300, manufactured by the American Instrument Co. (Aminco) provides a discontinuous range of 1.00-1.13 g/cm^3 and an accuracy of 1×10^{-4} in a 0.015 g/cm^3 range. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated March 22, 1973, that the range and basic accuracy of the foreign article are pertinent to the purposes for which the article is intended to be used.

We, therefore, find that the Aminco model 300 is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-7617 Filed 4-19-73;8:45 am]

UNIVERSITY OF COLORADO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00232-99-61800. Applicant: University of Colorado, Purchasing Services Department, Regent Box 8, Boulder, Colo. 80302. Article: Planetarium projection instrument model VI. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used primarily for university classes in astronomy and related sciences, in other fields that touch on astronomy or astronomical lore, and in teacher training. Courses are to be offered involving training in astronomy and the use of a planetarium for earth science, physical science, and physics teachers in the junior-senior high schools and for about 100 elementary schoolteachers. In addition, the article will be used for general public lectures.

Application received by Commissioner of Customs: November 9, 1972.

Comments: No comments have been received with respect to this application. Two letters from Spitz Laboratories, Inc. (Spitz), which were received after the period for comment had expired, are being treated as offers to provide additional information in accordance with § 701.10(a) of the regulations. Spitz alleged inter alia that either its model ISTP (STP) or its model STS "is a commercial domestic equivalent (to the foreign article) for the educational purposes as described by the applicant."

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this is intended to be used, is being manufactured in the United States.

Reasons: The captioned application is a resubmission of docket No. 72-00518-99-61800, which was denied without prejudice to resubmission August 8, 1972, due to informational deficiencies. The National Air and Space Museum (NASM) in its memorandum dated January 18, 1973, advises that the foreign article's ability to provide scintillation of stars is pertinent (within the meaning of § 701.2(n) of the regulations) to teaching the course, "Earth's atmosphere and exosphere, effects on observation," by the applicant. NASM considered the Spitz model STP planetarium to be the domestic instrument most closely comparable to the foreign article and advised that scintillation of stars was not available on the STP. We, therefore, find that the STP is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific vaule to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-7616 Filed 4-19-73;8:45 am]

UNIVERSITY OF TEXAS, ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00178-33-46040. Applicant: University of Texas Southwestern Medical School at Dallas, 5323 Harry Hines Boulevard, Dallas, Tex. 75235. Article: Electron microscope, model JEM 100B and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for high resolution studies of immunocompetent cells, virus-infected cells, virions, and isolated nucleic acids and proteins. The ultrastructure of the membranes of the immunocompetent cells and virus-infected cells will be studied in thin sections and by negative staining using the goniometer tilting accessory to reveal the three-dimensional structure of the specimens. High resolution microscopy will be used to investigate virus-cell interactions such as virus-induced cell fusions, as well as to characterize the structure of isolated and purified proteins and protein subunits. In addition the article will be used for teaching medical students in a microbiology course and for teaching graduate students, medical students, and postdoctoral fellows, in a seminar course on fundamental techniques of high resolution electron microscopy. Application received by Commissioner of Customs: October 2, 1972. Advice submitted by Department of Health, Education, and Welfare on: March 30, 1973.

Docket No. 73-00187-33-46040. Applicant: Washington University (Ophthalmology Department), 660 South Euclide Avenue, St. Louis, Mo. 63110. Article: Electron microscope, model JEM-100B and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used for research on the visual system directed at elucidation of the processes involved in photoreception which requires the study of microscopic sections of the rods and cones of the retina at high resolution following exposure to light or darkness or to various chemical or physical agents. The article will also be used to train investigators in visual research. Application received by Commissioner of Customs: October 11, 1972. Advice submitted by Department of Health, Education, and Welfare on March 30, 1973.

Docket No. 73-00188-33-46040. Applicant: New York University School of Medicine, Department of Cell Biology, 550 First Avenue, New York, N.Y. 10016. Article: Electron microscope, model JEM-100B and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used in high resolution cytochemical studies which include the following:

(1) The study of ribosomes and microsomes from human fibroblasts (WI-38 cells) and rat hepatocytes.

(2) The structural organization of the secretory apparatus of the liver, adrenal glands, and exocrine glands.

(3) Localization of 3*B*-hydroxysteroid dehydrogenase by cytochemistry at the electron microscope level.

Application received by Commissioner of Customs: October 6, 1972. Advice submitted by Department of Health, Education, and Welfare on March 30, 1973.

Docket No. 73-00222-33-46040. Applicant: Midland Macromolecular Institute, 1910 West St. Andrew Drive, Midland, Mich. 48640. Article: Electron microscope, model EM 301. Manufacturer: Philips Electronic Instruments NVD, the Netherlands. Intended use of article: The article is intended to be used for fundamental research on the superstructure of macromolecular substances, both synthetic and natural. Studies will be made of crystallographic and/or morphological properties of specimens subjected to differing thermal and mechanical properties. The overall objective of these studies is the determination of relationships of structure to thermal history and relationships of mechanical properties to structure. Application received by Commissioner of Customs: November 7, 1972. Advice submitted by Department of Health, Education, and Welfare on March 30, 1973.

Docket No. 73-00278-33-46040. Applicant: Baylor College of Medicine, Department of Cell Biology, 1200 Moursund Avenue, Houston, Tex. 77025. Article: Electron microscope, model Elmiskop 102. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used to study the fine structure of gametogenic cells in testes and ovaries, as well as supporting and hormone secreting cells in these organs. Special attention will be given to: (1) The junctional complexes which contribute to the blood-testis barrier, and the influence of hormones on the structure and development of these complexes; (2) the fine structure of spermatogonia; (3) the arrangement and biochemistry of filaments in sperm tails; and (4) the membranes of hormone receptor cells in ovaries and testes. The article will also be used in the courses "Techniques of Electron Microscopy and Cytology" to prepare students for careers as, (1) research scientists in the morphological disciplines and cell biology and as (2) academicians who are competent to staff basic science departments in medical schools. Application received by Commissioner of Customs: December 7, 1972. Advice submitted by Department of Health, Education, and Welfare on March 30, 1973.

Docket No. 73-00293-33-46040. Applicant: University of Chicago, 5801 South Ellis Avenue, Chicago, Ill. 60637. Article: Electron microscope, model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used in an electron microscope laboratory to provide service to scientists who have either frequent or occasional need for electron microscopic studies of molecules and tissue preparations. The laboratory will be committed to a wide range of ultrastructural projects that include studies on ovarian, testicular, and placental function, on sperm and ovum biology, and on problems related to fertility and infertility. Application received by Commissioner of Customs: December 15, 1972. Advice submitted by Department of Health, Education, and Welfare on March 30, 1973.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. Reasons: Each foreign article has a specified resolving capability equal to or better than 3.5 angstroms.

The most closely comparable domestic instrument is the model EMU–4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The model EMU–4c has a specified resolving capability of 5 angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo model EMU–4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73–7615 Filed 4–19–73;8:45 am]

Social and Economic Statistics Administration

RETAIL SALES, PURCHASES, INVENTORIES, CAPITAL EXPENDITURES, FIXED ASSETS, RENTAL PAYMENTS, PAYROLL, AND SUPPLEMENTARY LABOR COSTS

Notice of Determination Regarding Survey

In accordance with Title 13, United States Code, sections 181, 224, and 225 and due notice of consideration having been published March 13, 1973 (38 FR 6842), I have determined that certain 1972 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951, and makes available on a comparable classification basis data covering 1972 year-end inventories, annual sales, and purchases. Additional items requesting capital expenditures, changes in fixed assets, rental payments, payroll, and supplementary labor costs are included as supplemental data for the 1972 census of business. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of retail firms in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from sample stores on the basis of their sales size, selection in census list sample mail panel, and location in census sample areas. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participants in the Bureau's monthly survey will be asked to report in total only.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: April 17, 1973.

EDWARD D. FAILOR,
Administrator, Social and Economic Statistics Administration.

[FR Doc.73–7662 Filed 4–19–73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–73–228]

DEPUTY AREA DIRECTOR, BUFFALO AREA OFFICE

Designation and Delegation of Authority

Designation of Acting Area Director.—Each of the officials appointed to the following positions is designated to serve as Acting Area Director during the absence of the Area Director, with all the powers, functions, and duties redelegated or assigned to the Area Directors: *Provided,* That no official is authorized to serve as Acting Area Director unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Director.
2. The Director, Equal Opportunity Division.
3. The Director, Operations Division.
4. The Director, Housing Management Division.
5. The Area Counsel.

(36 FR 3389, Feb. 23, 1971, as amended at 37 FR 746, Jan. 18, 1972.)

Effective date.—This designation and delegation shall be effective as of April 9, 1973.

FRANK D. CERABONE,
Director, Buffalo Area Office.

[FR Doc.73–7706 Filed 4–19–73;8:45 am]

[Docket No. D–73–229]

REGIONAL EMERGENCY SERVICES OFFICER ET AL., REGION IV (ATLANTA)

Designation as Contracting Officer Regarding Major-Disaster Field Functions

SECTION A. *Designation and redelegation.*—The Regional Emergency Services Officer and each Director, Disaster Field Office, of the Department of Housing and Urban Development, region IV (Atlanta), are designated as contracting officers and are authorized to enter into and administer procurement contracts within major-disaster areas under their jurisdiction, including the sale of emergency housing acquired pursuant thereto to occupants, and to make related determinations except under section 302 (c) (11), (12), and (13) of the Federal Property and Administrative Services Act (41 USC 252 (c) (11), (12), and (13)) with respect to major disaster relief functions of the Department and as assigned by the Director, Office of Emergency Preparedness, by Public Law 91–606 (42 USC 4401), Executive order 11575 (36 FR 37), and regulations of OEP (32 CFR parts 1709 and 1710, amended by 36 FR 1329).

Supersedure.—This redelegation of authority supersedes the redelegation published at 36 FR 8893, May 14, 1971.

(Redelegation of authority by the Assistant Secretary for Housing Management effective July 13, 1971 (37 FR 3376, Feb. 15, 1972).)

Effective date.—This redelegation of authority is effective as of March 23, 1973.

T. M. ALEXANDER, Jr.,
Acting Regional Administrator, Region IV, Atlanta, Ga.

[FR Doc.73–7707 Filed 4–19–73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50–352, 353]

PHILADELPHIA ELECTRIC CO.

Order Convening Evidentiary Hearing

In the matter of Philadelphia Electric Co. (Limerick Generating Station Units 1 and 2), Docket Nos. 50–352, 50–353:

The Delaware River Basin Commission, on March 29, 1973, issued a resolution pertaining to a water supply for the nuclear reactors proposed to be constructed by Philadelphia Electric Co. The Regulatory Staff of the Commission (Staff), on January 9, 1973, stated that it would not be in a position to establish a final Staff position from either an environmental or safety standpoint until the water availability question has received further clarification.

The Atomic Safety & Licensing Board is desirous of scheduling hearings for the completion as soon as possible, of the presentation of all data intended to be submitted by the parties on safety, and when the final environmental impact statement is completed, on environmental matters. On April 5, 1973, the Board inquired of the parties concerning their convenience for resuming hearings during the week of May 7, 1973. The Staff replied that all issues appropriate for radiological health and safety hearings have been disposed of and there appeared to be no need for further hearings on such matters.

On October 17, 1972, the last previous day of the evidentiary hearings in this proceeding, the Applicant, Philadelphia Electric Co., made reference to "loose ends" that may remain in reference to radiological phases of the proceeding. In

addition, intervenor, the Environmental Coalition on Nuclear Power, stated that some evidence may be procured from the Commonwealth of Pennsylvania concerning water supplies. At that time, the Coalition stated that it was not prepared to cross-examine on the rod drop accident analysis that was presented by the Staff at the concluding portion of the October 17th session, and cross-examination was deferred.

The Board concludes that the record is not clear respecting the intention of the parties respecting the presentation of evidence, and a conference type of hearing or "loose end" evidentiary session of hearing should be convened. This session of the hearings may not utilize more than 2 or 3 days, but the Board is desirous of procuring the presentation of all evidence that can be adduced at this time.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Commission, that a conference type of hearing, which will include the opportunity for presentation of evidence, shall convene at 2 p.m. on Wednesday, May 9, 1973, in the Potts' room, Holiday Inn, West King Street at Route 100, Pottstown, Pa.

Issued April 17, 1973, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.73-7682 Filed 4-19-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24488; Order 73-4-60]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North/Central and South Pacific Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of April 1973.

Agreements have 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), and adopted at meetings in New York and London in the winter of 1973.

Insofar as they are of significance in air transportation as defined by the Act, the agreements, which have been assigned the above-designated CAB agreement numbers, comprise the overall North/Central and South Pacific fare structures for an intended effectiveness from May 1, 1973.[1]

Under the terms of the agreements, fares between U.S. west coast points and the Far East would be increased by approximately 9 percent. This increase would apply to first class, normal economy, excursion, individual inclusive tour, and affinity group of 25 fares and constitutes a 4-percent fare increase and a 5-percent increase to reflect devaluation of the dollar. The peak/basic seasonal fare differentials would continue to apply only to group inclusive tour (GIT) fares with the peak season redefined as the months of June through October compared with the present peak period of July through October. Peak season GIT fares would be increased by the 5-percent currency adjustment while the basic season fares would be reduced by 5 percent. Present affinity group fares for groups of 70 passengers would be increased by the 5-percent currency adjustment to Tokyo but would be reduced by amounts of up to 9 percent for travel to and from points west of Tokyo. In addition, a new affinity group fare available for groups of 100 or more would be introduced for travel to Tokyo. This new fare, proposed at $347, represents a discount of 62 percent from the proposed normal economy fare.

Over the South Pacific between the west coast and Australia first-class, normal economy, excursion and individual inclusive tour fares would be increased by 10 percent.[2] New conditions proposed on individual inclusive tour fares would allow a maximum of five free stopovers compared with unrestricted stopovers at present. The group inclusive tour fares would be reduced by 7 percent; however, the two free stopovers in each direction presently available would be eliminated. Two stopovers in each direction would be made available at a charge of $25 per stopover. Affinity group fares would also be reduced by 7 percent,[3] the minimum group size reduced from 25 to 15 passengers, and no stopovers would be permitted. Presently two free stopovers are permitted.

In addition to the above, an individual advance purchase excursion fare is proposed for travel over the South Pacific. This fare, set at significantly lower levels than the proposed excursion fares, would be available for travel from 14 to 21 days; permit no stopovers; require reservations and full payment 60 days prior to departure; and would be subject to a forfeiture of 25 percent of the fare in the event of cancellation.

A comparison of various present and proposed fares appears in the attached appendix below.

In passing upon these agreements which for the most part would increase fares over the North/Central and South Pacific, the Board is required by section 412 of the Act to find that the agreements are not adverse to the public interest nor in violation of the Act. In this connection, the purpose of this order is to direct the U.S. carrier members of IATA to submit full economic justification, and any other material they each may desire to submit, in support of the agreement to which they are parties and to provide an opportunity for comment by any other interested persons.

In view of the need for prompt disposition of the agreements, the above justification, together with any comments and objections by interested persons with respect to the agreements, shall be submitted within 10 days after the date of this order. Replies shall be filed within 10 days after the receipt of justification and comments.

Accordingly, it is ordered, That:

1. All U.S. air carrier members of the International Air Transport Association shall file within 10 calendar days after the date of this order, full documentation and economic justification for changes in fares and related conditions embodied in the subject agreements.

2. Comments and objections from interested persons and parties shall be submitted within 10 calendar days after the date of this order.

3. Replies to justifications received in response to ordering paragraph 1 above and replies to comments received pursuant to ordering paragraph 2 above shall be submitted within 10 calendar days after the date of receipt of such justification and comments.

4. This order will be served upon all U.S. certificated route and supplemental carriers, the Department of Transportation, the National Air Carrier Association, and the American Society of Travel Agents.

5. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreements shall not be filed in advance of Board approval of the subject agreements.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[1] The fares listed herein reflect changes resulting from devaluation of the dollar. The comparisons made compare fares in effect prior to devaluation with those proposed for May 1, 1973, effectiveness.

[2] A 5-percent currency increase and a 5-percent fare increase. These fares would be increased by 6 percent in the case of travel to/from Papeete.

[3] A 2-percent increase would apply to Papeete.

APPENDIX A

COMPARISON OF SELECTED PRESENT AND PROPOSED IATA-AGREED NORTH/CENTRAL AND SOUTH PACIFIC PASSENGER ROUND-TRIP FARES

	West coast—Tokyo				West coast—Hong Kong			
	Present [1]	Proposed	Percent change	Proposed fares exclusive of currency adjustment	Present [1]	Proposed	Percent change	Proposed fares exclusive of currency adjustment
Normal fares:								
First class	$1,370	$1,496	9.1	$1,424	$1,702	$1,859	9.2	$1,770
Economy class	834	911	9.2	868	+1,020	1,113	9.1	1,060
Promotional fares:								
Excursion	709	774	9.2	737	868	948	9.2	903
Individual inclusive tour	676	738	9.2	703	827	903	9.2	860
Group inclusive tour:								
Basic	482	457	(5.2)	435	641	608	(5.1)	579
Peak	535	562	5.0	535	694	729	5.0	694
Affinity group:								
25 or more	626	684	9.3	651	766	837	9.3	797
70 or more	423	444	5.0	423	589	546	(7.3)	520
100 or more		347		330				

	West coast—Sydney				West coast—Papette			
	Present [1]	Proposed	Percent change	Proposed fares exclusive of currency adjustment	Present [1]	Proposed	Percent change	Proposed fares exclusive currency adjustment
Normal fares:								
First class	$1,640	$1,808	10.2	$1,722	$1,140	$1,205	5.7	$1,148
Economy class	1,178	1,298	10.2	1,236	842	893	6.1	850
Promotional fares:								
Excursion	833	919	10.3	875	572	609	6.5	580
Individual inclusive tour	689	759	10.2	723	456	487	6.8	464
Group inclusive tour	620	578	(6.8)	550		473		450
Affinity group	620	578	(6.8)	550	463	473	2.2	450
Individual APEX		725		690		546		520

[1] As at March 1973.

[FR Doc.73-7563 Filed 4-19-73;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Notice of Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Executive Director, Office of the Counselor for Natural Resources, Office of the Secretary.

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

[FR Doc.73-7695 Filed 4-19-73;8:45 am]

DEPARTMENT OF COMMERCE

Notice of Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Administrator, Social and Economic Statistics Administration.

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

[FR Doc.73-7696 Filed 4-19-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service two positions of Assistant to the Secretary, Office of the Secretary.

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

[FR Doc.73-7697 Filed 4-19-73;8:45 am]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Chief, Special Trial Section, Antitrust Division.

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

[FR Doc.73-7698 Filed 4-19-73;8:45 am]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, April 25, 1973, in room 1600 of the municipal services building in Philadelphia, beginning at 2 p.m. The subject of the hearing will be a proposal to amend the comprehensive plan so as to include therein the following projects:

1. *Old Orchard Development Corp.*—Expansion of a sewage treatment plant to serve the Hickory Hills Mobile Home Development in Moore Township, Northampton County, Pa. About 95 percent of BOD_5 will be removed from a sewage flow of about 58,000 gallons per day. Treated effluent will discharge to a tributary of the east branch Monocacy Creek.

2. *Citizens Utilities Home Water Co.*—A well water supply project to augment public water supplies in Upper Providence Township, Montgomery County, Pa. The new facility will develop 560,000 gallons per day and will help serve Royersford, Spring City, East Vincent, and adjacent townships.

3. *West Chester Area Municipal Authority.*—A well water supply project to augment public water supplies in East Bradford Township, Chester County, Pa. Two new wells will develop a combined yield of about 317,000 gallons per day and provide service in West Chester Borough and surrounding townships.

4. *Chalfont Borough.*—A well water supply project located in New Britain Borough to augment public water supplies of the Chalfont Borough water system, Bucks County, Pa. Designated as well No. 8, the new facility will yield about 500,000 gallons per day and help provide service in Chalfont Borough and New Britain Township.

5. *General Investment Development Co.*—A well water supply project to augment public water supplies in the Colonial Woods development in Doylestown, Bucks County, Pa. Wells Nos. 1 and 2 will provide a combined yield of about 61,000 gallons per day.

6. *Hatboro Borough Authority.*—A well water supply project to augment public water supplies in Upper Moreland Township, Montgomery County, Pa. The new facility is expected to yield 720,000 gallons per day and provide service in Hatboro Borough and Upper Moreland Township.

7. *Edenwood Water Co.*—A well water supply project to augment public water supplies in Mantua Township, Gloucester County, N.J. The new facility will be used for standby service in the Edenwood development and is designed to yield about 184,000 gallons per day.

8. *State of Delaware, Department of Natural Resources and Environmental Control.*—A sewage treatment plant to serve Lums Pond State Park, New Castle County, Del. The new facility will remove about 90 percent of BOD_5 from an estimated sewage flow of 105,000 gallons per day. Treated effluent will discharge

to the outfall stream below Lums Pond.

9. *Upper Gwynedd-Towamencin Municipal Authority.*—Expansion and upgrading of the authority's sewage treatment plant in Towamencin Township, Montgomery County, Pa. The facility would serve a sewage flow of 6.5 million gallons per day and provide 95 percent reduction of BOD_5. Treated effluent will discharge into Towamencin Creek.

Documents relating to the above projects may be examined at the Commission offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,
Secretary, Delaware River Basin Commission.

APRIL 12, 1973.

[FR Doc.73-7589 Filed 4-19-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

CIBA-GEIGY CORP.

Notice of Establishment of Temporary Tolerance

CIBA-GEIGY Corp., Ardsley, NY 10502, submitted a petition (PP 3G1345) requesting establishment of a temporary tolerance for negligible residues of the herbicide *N*-(*cyclopropylmethyl*) - α,α,α-trifluoro - 2,6-dinitro-*N*-propyl-*p*-toluidine in or on the raw agricultural commodity cottonseed at 0.1 part per million.

It has been determined that this temporary tolerance is safe and will protect the public health. It is therefore established on condition that the herbicide be used in accordance with the temporary permit which is being issued concurrently by the Environmental Protection Agency and which provides for distribution under the CIBA-GEIGY Corp. name.

This temporary tolerance expires April 16, 1974.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7597 Filed 4-19-73;8:45 am]

RHODIA, INC.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 180.8, withdrawal of petitions without prejudice of the pesticide procedural regulations (40 CFR 180.8), Rhodia, Inc., 120 Jersey Avenue, New Brunswick, N.J. 08903, has withdrawn its petition (PP 2F1182), notice of which was published in the FEDERAL REGISTER of August 21, 1971 (36 FR 16525), proposing establishment of tolerances for negligible residues of the defoliant, desiccant, and herbicide *p*-(dimethylamino) thiocyanobenzene in or on the raw agricultural commodities cottonseed, onions, and potatoes at 0.1 part per million.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7600 Filed 4-19-73;8:45 am]

S-ETHYL DIETHYLTHIOCARBAMATE

Notice of Extension of Temporary Tolerance

In connection with pesticide petition No. 2G1214, Gulf Oil Corp., Pittsburgh, Pa. 15230, was granted a temporary tolerance for negligible residues of the herbicide *S*-ethyl diethylthiocarbamate in or on the raw agricultural commodities corn grain, corn fodder and forage, and fresh corn including sweet corn (kernels plus cob with husk removed) at 0.1 part per million on April 12, 1972 (notice was published in the FEDERAL REGISTER of April 20, 1972 (37 FR 7831)). This temporary tolerance expires April 12, 1973.

The firm has requested a 1-year extension to obtain additional experimental data. It is concluded that this extension of the temporary tolerance for negligible residues of the herbicide in or on the above-mentioned commodities will protect the public health. It is therefore extended as requested on condition that the herbicide be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the Gulf Oil Corp. name.

The extended temporary tolerance expires April 12, 1974.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7598 Filed 4-19-73;8:45 am]

UPJOHN CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1365) has been filed by The Upjohn Co., Kalamazoo, MI 49001, proposing (a) to increase the established tolerance (40 CFR part 180) for residues of the fungicide 2,6-dichloro-4-nitroaniline in or on the raw agricultural commodity plums (fresh prunes) from 1 part per million to 15 parts per million to allow postharvest as well as preharvest use and (b) to revoke the established tolerance for residues of this fungicide in or on the raw agricultural commodity strawberries at 15 parts per million.

The analytical method proposed in the petition for determining residues of the fungicide is a microcoulometric gas chromatographic technique.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7599 Filed 4-19-73;8:45 am]

AGWAY, INC.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 180.8, "Withdrawal of petitions without prejudice" of the pesticide procedural regulations (40 CFR 180.8), Agway, Inc., P.O. Box 1333, Syracuse, N.Y. 13201, has withdrawn its petition (PP 2F1226), notice of which was published in the FEDERAL REGISTER of March 16, 1972 (37 FR 5519), proposing establishment of a tolerance for residues of the desiccant and defoliant neodecanoic acid (a mixture of 10-carbon trialkyl acetic acids (calculated as $C_9H_{19}COOH$)) in or on the raw agricultural commodity dry bulb onions at 1 part per million.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7690 Filed 4-19-73;8:45 am]

APPLIED BIOCHEMISTS, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3H5027) has been filed by Applied Biochemists, Inc., P.O. Box 25, Mequon, Wis. 53092, proposing establishment of a food additive tolerance (21 CFR part 121) for residues of copper in potable water at 1 part per million resulting from the use of copper triethanolamine complex to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 73-7691 Filed 4-19-73;8:45 am]

DOW CHEMICAL U.S.A.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1370) has been filed by Dow Chemical U.S.A., P.O. Box 1706, Midland, Mich. 48640, proposing establishmemnt of a tolerance (40 CFR part 180) for combined residues of the insecticide *O,O*-diethyl *O*-(3,5,b-trichloro-2-pyridyl) phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity bananas at 0.25 part per million of which not more than 0.05 part per million (negligible residue) shall be present in the pulp after the peel is removed and discarded.

The analytical methods proposed in the petition for determining residues of the insecticide and its metabolite are gas chromatographic procedures. The insecticide is determined directly using flame photometric detection; the metabolite is reacted with *N,O*-bis(trimethylsilyl) acetamide to form the pyridinol trimethlysilyl derivative and determined using electron capture detection.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7692 Filed 4-19-73;8:45 am]

ROHM & HAAS CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1366) has been filed by Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing establishment of a tolerance (40 CFR part 180) for residues of the herbicide 2,4-dichlorophenyl *p*-nitrophenyl ether in or on the raw agricultural commodity garlic at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas liquid chromatographic procedure with electron-capture detection.

Dated April 16, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-7693 Filed 4-19-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List 307]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

MARCH 29, 1973.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		610 kHz							
CJOX (change in frequency and increase in power—PO 710 kHz, 1 kW, DA-1).	Grand Bank, Newfoundland, N. 47°05'45", W. 55°47'00".	*10 kW*	*DA-2*	U	III				
		530 kHz							
CJON (increase in power—PO 930 kHz, 10 KW, DA-N, ND-D-180).	St. John's, Newfoundland, N. 47°34'45", W. 52°47'15".	*25 kW*	*DA-2*	U	III				
		1350 kHz							
(New)	Gander, Newfoundland, N. 48°58'30", W. 54°36'47".	1 kW	ND-185	U	III	135	120	283	E.I.O. 3-29-74.
		810 kHz							
(New)	Caraquet, New Brunswick, N. 47°46'05", W. 65°03'13".	10 kW	DA-N ND-189.7	U	II				E.I.O. 3-29-74.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-7680 Filed 4-19-73;8:45 am]

[Docket Nos. 19410, 19411; FCC 73R-154]

KEY BROADCASTING CORP. AND SOUND MEDIA, INC.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Key Broadcasting Corp., Lexington Park, Md., Docket No. 19410, file No. BPH-6540; Sound Media, Inc., Leonardtown, Md., Docket No. 19411, file No. BPH-6886, for construction permits.

1. Before the Review Board is a petition to enlarge issues, filed January 5, 1973, by Sound Media, Inc. (Sound) requesting the addition of the following issue against Key Broadcasting Corporation (Key):

To determine whether Key Broadcasting Corporation has represented to the public that its existing AM station WPTX, Lexington Park, Md. is licensed for power of 5000 W, day and night, and if so, its effect upon Key's comparative and basic qualifications.[1]

2. Sound contends that Key has sought to mislead potential advertisers as to its licensed nighttime power. Submitted in support of this allegation is a copy of an advertising brochure or flyer which in its heading immediately under the call letters WPTX states: "5,000 watts—920 on the dial—Day and Night." In fact, petitioner states, WPTX has an authorized power of 5,000 W daytime and 1,000 W nighttime. Petitioner construes Key's representation as intended to deceive, especially in view of the fact that a similar issue was added previously against Key in this proceeding.[2] Finally,

[1] Also before the Board are the following related pleadings: (a) Broadcast Bureau's comments, filed Jan. 18, 1973; and (b) opposition, filed Feb. 2, 1973, by Key.

[2] See *Key Broadcasting Corp.*, 37 F.C.C. 2d 649, 25 R.R. 2d 502 (1972), where the Board added an issue with respect to whether Key misrepresented the location of station WKTK-FM.

petitioner maintains that the Commission has repeatedly held such deceptive practices to reflect adversely on the qualifications of a licensee or an applicant, citing *Universal Communications of Pittsburgh, Inc.*, 21 F.C.C. 2d 542, 18 R.R. 2d 491 (1970); and *Century Broadcasting Corp.*, 30 F.C.C. 2d 733, 22 R.R. 2d 221 (1971). The Broadcast Bureau supports addition of the requested issue.

3. In opposition, Key argues that the petition is late and no good cause has been shown for its tardiness. Key also maintains that petitioner's request is not warranted on the merits since the wording of the rate card is entirely consistent with practices generally followed in the broadcast industry and is in no way misleading. In support thereof, Key submits the copies of rate cards or letterheads of eight stations showing only their daytime power, two of which indicate that they are 24-hour operations.[3]

4. The Review Board will grant Sound's petition.[4] It is well established that the Commission requires full disclosure and candor from licensees in their dealings with the public and potential advertisers as to station coverage, location and power. Universal Communications of Pittsburgh, Inc., supra; and Century Broadcasting Corp., supra. In our view, the placement of the wording in Key's advertising brochure could convey the impression that station WPTX is licensed to operate with a power of 5,000 W, day and night; and considered in light of the fact that a similar issue has already been specified against this licensee,[5] it raises a substantial question as to whether Key has attempted to mislead the public and advertisers as to its licensed nighttime power. This matter is also relevant to the resolution of the previously specified issue since, as the Bureau points out, a question arises whether Key has engaged in a pattern of such conduct. Finally, Key's attempt to establish that the wording in its brochure is not misleading, but rather consistent with industry practice in general, is not persuasive. In none of the examples cited by Key is the wording and placement of the wording comparable, and unlike these other stations, Key has engaged in other conduct which raises questions regarding its business practices. In these circumstances, an appropriate issue will be added.

5. *Accordingly, it is ordered*, That the petition to enlarge issues, filed January 5, 1973, by Sound Media, Inc., is granted; and

6. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issue:

To determine whether Key Broadcasting Corp., has misrepresented the licensed nighttime power of station WPTX, Lexington Park, Md., to the public and its advertisers, and in light of the evidence adduced pursuant to the foregoing, the effect on Key Broadcasting Corp.'s basic and/or comparative qualifications.

7. *It is further ordered*, That the burden of proceeding with the introduction of the evidence under the issue added herein shall be on Sound Media, Inc., and the burden of proof thereunder shall be on Key Broadcasting Corp.

Adopted April 12, 1973.

Released April 13, 1973.

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

[FR Doc.73-7674 Filed 4-19-73;8:45 am]

[FCC 73-398]

STANDARD BROADCAST APPLICATIONS

Notice of Availability for Processing

APRIL 12, 1973.

The following applications seek the identical facilities of former station KOOD, Lakewood, Wash. The license of KOOD was canceled and the call letters were deleted by Commission action of September 13, 1972. Accordingly, we have waived the provisions of the note to § 1.571 of the Commission's rules to permit acceptance of the applications for filing. Similarly, we will accept any other applications for consolidation with the following applications which propose essentially the same facilities:

New, Lakewood, Wash., Clay Frank Huntington, requests: 1480 kHz, 1 kW, day.
New, Lakewood, Wash., Dale A. Owens, requests: 1480 kHz, 1 kW, day.

Pursuant to the provisions of §§ 1.227 (b) (1) and 1.591(b) of the Commission's rules, an application, in order to be considered with these applications, must be tendered no later than May 25, 1973.

The attention of any party in interest desiring to file pleadings concerning these applications, pursuant to section 309(d) (1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Action by the Commission April 11, 1973.[1]

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

[FR Doc.73-7679 Filed 4-19-73;8:45 am]

[Docket Nos. 19122-19125; FCC 73-382]

STAR STATIONS OF INDIANA, INC. ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of: Star Stations of Indiana, Inc., for renewal of licenses of WIFE, and WIFE-FM, Indianapolis, Ind., Docket No. 19122, file Nos. BR-1144, BRH-1276; Indianapolis Broadcasting, Inc., for a construction permit for a standard broadcast station, Indianapolis, Ind., Docket No. 19123, file No. BP-18706; Central States Broadcasting, Inc., for renewal of licenses of KOIL, and KOIL-FM, Omaha, Nebr., Docket No. 19124, file Nos. BR-516, BRH-992; Star Broadcasting, Inc., for renewal of license of KISN, Vancouver, Wash., Docket No. 19125, file No. BR-1027.

1. The Commission has before it for consideration: (a) A Memorandum Opinion and Order of the Review Board, FCC 72R-372, 38 FCC 2d 641, released December 15, 1972, denying the petition of Star Stations of Indiana, Inc. (Star) for enlargement of issues in this proceeding; (b) an application for review of (a), above, filed on December 22, 1972, by Star; (c) oppositions to the application for review filed on January 5 and January 8, 1973, respectively, by Indianapolis Broadcasting, Inc. (IBI) and the Chief, Broadcast Bureau (Bureau); and (d) a reply to the oppositions filed on January 17, 1973, by Star.

2. This proceeding involves the mutually exclusive applications of Star for renewal of the licenses of stations WIFE and WIFE-FM, Indianapolis, Ind., and of IBI for a construction permit for a new standard broadcast station in Indianapolis, Ind. Before the Board, Star sought enlargement of the issues in this proceeding, alleging that in a conversation which took place during a break in a formal deposition proceeding, Murray Feiwell, local counsel for, as well as an officer, director, and 5 percent stockholder of, IBI, asked the Broadcast Bureau's counsel, Joseph Chachkin, if he would be "interested in joining [Feiwell's law firm] as a trial attorney."[2] The Board denied Star's petition on the grounds that, under basic contract law, there was no offer and that the surrounding circumstances negated any intent to make such an offer. For these reasons, the Board concluded that enlargement of the issues in this proceeding would serve no useful purpose.

3. Star has filed an application for review, alleging that the Board erred in applying concepts of contract law to questions concerning the appearance of impropriety and the integrity of the Commission's processes. Suggesting that Feiwell wanted to ingratiate himself with Chachkin because he (Feiwell) was to be deposed as a witness on issues adverse to IBI, Star contends that only an unsophisticated person could have been unaware of the impact of the words used in the conversation. Star asserts that this matter cannot be satisfactorily resolved without a hearing and that the allegations are of sufficient magnitude to warrant consideration at this time. IBI and the Bureau both oppose Star's application for review, urging that the Board's disposition of Star's questions is satisfactory.

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[3] Petitioner alleges that it examined the license files of 36 stations, and that, of these, 25 did not mention their power, 3 specified both daytime and nighttime power and 8 specified only their daytime power.

[4] Although Sound's petition is late-filed, the Board believes that it raises substantial public interest questions which merit our consideration. *The Edgefield-Saluda Radio Co. (WJES)*, 5 F.C.C. 2d 148, 8 R.R. 2d 611 (1966); and *Athens Broadcasting Co., Inc.*, 27 F.C.C. 2d 7, 20 R.R. 2d 1115 (1971).

[5] See footnote 2, supra.

[1] Commissioners Burch (Chairman), Johnson, Reid, Wiley, and Hooks.

[2] The pertinent portions of the conversation are set forth in the Review Board's memorandum opinion and order and will not be repeated here.

4. While we are persuaded that the Board is correct that the conversation in question did not involve a legally binding contractual offer, we also agree with Star that an invitation to enter into negotiations which might lead to an offer of employment would have the same suggestion of impropriety as an actual offer. In spite of the appearance that such an invitation might have been extended here, Feiwell's affidavit merely states that he did not offer a job to Chachkin, without either affirming or denying that he asked the question attributed to him as to whether Chachkin would be "interested" in joining his firm.[2] Moreover, Feiwell has made no attempt to explain why he might have innocently initiated such a conversation. Although we recognize that the circumstances surrounding these remarks, particularly the presence of members of the opposing parties, tend to negate any improper motive, we are convinced that significant questions concerning Feiwell's character qualifications have been raised by this incident[3] which cannot be resolved simply on the basis of self-serving and untested affidavits.

5. Since Feiwell's conduct, as an officer, director, and stockholder of IBI, could have a serious effect on the basic or comparative qualifications of IBI to be a Commission licensee, we have concluded that this proceeding should be reopened[4] and remanded to the presiding Administrative Law Judge for a further hearing to be held on an expedited basis at the earliest practicable time and for preparation of a supplemental initial decision on the following issues:

(a) To determine all of the facts and circumstances surrounding alleged conversations between Murray Feiwell and Joseph Chachkin wherein the possibility of the employment of Chachkin with Feiwell's law firm was discussed; and

(b) To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether Indianapolis Broadcasting, Inc., possesses the requisite basic and/or comparative qualifications to be a Commission licensee. We shall place the burden of proceeding with the introduction of evidence under the above issues upon Star, and the burden of proof under the above issues upon IBI.

6. *Accordingly, it is ordered,* That the application for review filed December 22, 1972, by Star Stations of Indiana, Inc., is granted to the extent reflected herein and is denied in all other respects.

7. *It is further ordered:*

(a) That the memorandum opinion and order, F.C.C. 72R-372, 38 F.C.C. 2d 641, released December 15, 1972, is set aside;

(b) That the issues are enlarged as set forth in paragraph 5, above; and

(c) That this proceeding is reopened and remanded to the presiding Administrative Law Judge for a further hearing on an expedited basis at the earliest practicable time on the issues and in accordance with the procedure specified herein and for preparation of a supplemental initial decision.

Adopted April 11, 1973.

Released April 17, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-7675 Filed 4-19-73;8:45 am]

[2] We wish to emphasize that the Board's finding that Chachkin's conduct has been "without reproach" has not been challenged in any way and that our concern here is restricted solely to questions concerning the propriety of Feiwell's behavior.

[3] See *Chapman Radio & Television Co.*, 8 F.C.C. 2d 370 (1967), and canon 9 of the American Bar Association's Code of Professional Responsibility.

[4] An initial decision in this proceeding was released on Feb. 14, 1973 (F.C.C. 73D-6, as corrected by Mimeo. No. 98046, released Feb. 16, 1973).

[5] Commissioner Robert E. Lee absent, Commissioner Johnson concurring in the result.

VOICE/NONVOICE TASK GROUP, FCC PBX STANDARDS ADVISORY COMMITTEE

Notice of Public Meeting

APRIL 13, 1973.

In accordance with Public Law 92-463, announcement is made of a public meeting of the Voice/Nonvoice Task Group of the PBX Standards Advisory Commitee to be held May 3 and 4, 1973, 1229 20th Street NW., room A-110 at 9:30 a.m., Washington, D.C.

1. *Purposes.*—The purpose of the PBX Standards Advisory Committee is to prepare recommended standards to permit the interconnection of customer provided and maintained PBX equipment to the public switched network. The purpose of this task group is to prepare recommendations to the PBX Standards Advisory Committee regarding the most practicable means by which a noncertified data terminal may be used with a barrier PBX in lieu, or in addition to, a conventional telephone instrument.

2. *Activities.*—Members and observers review existing interface criteria in some detail with the aim of identifying any additional harm which might accrue from nonvoice (noncarbon transmitter) devices. Any new criteria or need for modifications to the existing documents are highlighted.

3. *Public participation.*—The public is invited to attend this meeting. Any member of the public wishing to file a written statement with the Committee, may do so either before or after the meeting.

4. *Agenda.*—The agenda for the May 3 and 4 meeting will be as follows:

a. Review and discussion on previously submitted assignments.

b. Review of new homework assignments.

c. Continued review and discussion of test standards.

d. Solicitation of public comments.

e. New homework assignments.

It is suggested that those desiring more specific information, contact the Domestic Rates Division on 202-632-6457.

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

[FR Doc.73-7678 Filed 4-19-73;8:45 am]

[Docket Nos.: 19468, etc.; FCC 73R-152]

WIOO, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of WIOO, INC., Carlisle, Pa., docket No. 19468, file No. BPH-6572; Howard J. Hilton, John E. McGowan, and John E. Hilton, doing business as Hilton, McGowan & Hilton, Carlisle, Pa., docket No. 19469, file No. BPH-6631; Alexander Contract and Sylvia Contract, doing business as Cumberland Broadcasting Co., Carlisle, Pa., docket No. 19471, file No. BPH-7404; for construction permits.

1. Before the Review Board is a petition to enlarge issues, filed December 7, 1972, by WIOO, Inc. (WIOO), requesting the addition of the following three issues against Cumberland Broadcasting Co. (Cumberland): (a) To determine whether Cumberland had reasonable assurance of the availability of the Trindle Spring Road transmitter site which it proposed in its application as filed on March 2, 1971, and, if so, under what terms and conditions; (b) to determine whether Cumberland is guilty of an abuse of process in filing an application for the use of a transmitter site at which it had no intention of constructing; (c) to determine whether Cumberland has been guilty of an abuse of process in filing in its supplemental opposition a document which it had secured solely for the purpose of deceiving the Commission that it had reasonable assurance of a site originally applied for in its application.[1]

2. In support of its requests, petitioner first points out that, as originally filed, Cumberland specified a site on Trindle Spring Road and alleges it received authority on February 24, 1971, from Mr. Lester V. Bloser, plant manager of a company which owned the property, to erect the tower on that land.[2] WIOO submits an affidavit of Mr. Bloser, dated December 1, 1972, in which Bloser explains the circumstances surrounding his writing the letter of February 24, 1971, authorizing Cumberland to erect the tower on the specified property. In his affidavit, Bloser states that when Alexander Contract (a Cumberland principal) approached him concerning the use of the Trindle Spring Road property for a transmitter site, he told Contract that the owner would never allow a tower on his property. Bloser asserts that Contract then indicated that he only wanted the letter of authorization in order to show the FCC that he had a place to

[1] Also before the Review Board are the following related pleadings: (a) Broadcast Bureau's comments, filed Dec. 20, 1972; (b) opposition, filed Jan. 4, 1973, by Cumberland; (c) reply, filed Jan. 17, 1973, by WIOO; (d) petition for leave to file supplement to petition to enlarge, and supplement, filed Jan. 29, 1973, by WIOO; (e) Broadcast Bureau's comments to (d), filed Feb. 6, 1973; (f) reply to (e), filed Feb. 9, 1973, by WIOO; and (g) opposition to (d), filed Feb. 13, 1973, by Cumberland.

[2] On May 22, 1971, Cumberland filed an amendment to its application which specified a new proposed transmitter site on Middlesex Road.

erect his tower and that later he would look for a better location. In light of the above affidavit, WIOO alleges that at the time Cumberland filed its application, it had no reasonable assurance of the availability of the initially specified transmitter site and furthermore had no intention of building the station at this site. In addition, petitioner claims that Cumberland is guilty of an abuse of process in filing a document secured solely for the purpose of deceiving the Commission that it had reasonable assurance of a site.[3] The Broadcast Bureau supports addition of the requested issues.

3. Cumberland opposes the petition on both procedural and substantive grounds. Cumberland argues first that the affidavit of Mr. Bloser, attached to the petition to enlarge, does not comply with the requirements of section 1.229 of the Commission's rules. In support thereof, Cumberland submits an affidavit of Mr. Bloser who states that he did not sign the document dated December 1, 1972 before a notary and that he did not authorize the notarization of that document. Moreover, Cumberland argues that the petition is inexcusably late because it follows the alleged events by 20 months and the designation order by almost 9 months and no good cause has been shown for the tardiness. On the merits, Cumberland submits an affidavit of Alexander Contract, in which he sets forth the sequence of events leading up to the specification of the Trindle Spring Road property as its transmitter site. Contract relates that when he initially inquired of Mr. Bloser whether it would be possible to lease the property for the purpose of erecting a tower and transmitter, Bloser agreed and did not think the owner of the property would object. Contract then claims he investigated the possibility of utilizing the adjacent property, but finding it unavailable, he returned to Mr. Bloser who then gave him the letter agreeing to lease the property.

4. In reply, WIOO asserts that Bloser admits in his affidavit attached to Cumberland's opposition that he signed the document attached to its petition and that he knew the document was going to be notarized. Furthermore, petitioner claims that Bloser does not in any way deny the truthfulness of the matters stated by him in his document. Finally, WIOO submits the affidavit of Harold Swidler, president of WIOO, in which he concedes the document was not signed before a notary, but states that he knew Bloser signed it personally and he had every reason to believe the genuineness of the statements contained therein.[4]

5. Although the Board agrees with Cumberland to the extent that WIOO has not justified the late filing of its petition, we are of the view that petitioner's allegations meet the test set forth in *The Edgefield-Saluda Radio Co. (WJES)* case,[5] and, therefore, that the requests should be considered on the merits. Assuming the accuracy of Bloser's affidavit,[6] it appears that Contract may have specified a transmitter site in Cumberland's application knowing that it was not available, and that he subsequently may 'have secured a document and submitted it to the Commission solely for the purpose of deceiving the Commission as to the availability of the proposed site. Such conduct, if true, would clearly reflect on an applicant's qualifications. Although Contract denies Bloser's allegations, and relates a different version of the relevant events, we cannot, on the basis of the pleadings before us, resolve the conflicting allegations relating to those events. Appropriate issues will therefore be specified where these matters can be explored at an evidentiary hearing.

6. *Accordingly, it is ordered*, That the petition for leave to file supplement to petition to enlarge issues, filed January 29, 1972, by WIOO, Inc., is denied, and the supplement filed therewith is dismissed; and

7. *It is further ordered*, That the petition to enlarge issues, filed December 7, 1972, by WIOO, Inc., is granted to the extent herein indicated, and is denied in all other respects; and

8. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether Cumberland Broadcasting Co. or any of its principals specified a transmitter site in its application knowing that the specified site was not available.

(b) To determine whether Cumberland Broadcasting Co. or any of its principals secured a document and filed it with the Commission solely for the purpose of deceiving the Commission that it had reasonable assurance of its proposed site.

(c) To determine the effect of the evidence adduced pursuant to the proceeding issues on the basic or comparative qualifications of Cumberland Broadcasting Co.

10. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the issues added herein shall be on WIOO, Inc., and the burden of proof thereunder shall be on Cumberland Broadcasting Co.

Adopted April 11, 1973.

Released April 13, 1973.

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

[FR Doc.73-7676: Filed 4-19-73;8:45 am]

[3] The letter of authorization from Mr. Bloser, dated Feb. 24, 1971, was submitted by Cumberland on Nov. 28, 1972, as an attachment to its supplement to its opposition to a petition to enlarge issues.

[4] WIOO's petition for leave to file a supplement to its petition to enlarge will be denied. WIOO's request to supplement its petition comes more than a month after the filing of its Dec. 7 petition and petitioner has not satisfactorily explained the delay nor why it did not include this material in its initial petition. See the Board's public notice on the filing of supplemmental pleadings before the Review Board No. 70836, released Oct. 11, 1972.

[5] 5 F.C.C. 2d 148, 8 R.R. 2d 611 (1966).

[6] While Bloser alleges, and petitioner concedes, that Bloser's affidavit was not properly notarized, this procedural deficiency is not controlling, since, as petitioner points out, Bloser does not dispute the accuracy of the statements contained in his affidavit or retract any of those statements. We note, however, that the Board has already added issues in this proceeding against WIOO for submitting documents that were not properly notarized. WIOO, Inc., 37 F.C.C. 2d 790, 25 R.R. 2d 567 (1972).

FEDERAL MARITIME COMMISSION

JAPAN-ATLANTIC AND GULF FREIGHT CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015 or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, on or before April 30, 1973. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of amended application to modify an approved dual-rate system and form of contract filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036

On November 22, 1972, volume 37, No. 266, at page 24848, there was published in the FEDERAL REGISTER a notice of the submission of agreement No. 3103 DR-2, an application on behalf of the member lines of the Japan-Atlantic and Gulf Freight Conference (agreement No. 3103, as amended), for permission under section 14b to modify their approved dual-rate system and form of contract applicable to the trade from Japan, Korea and Okinawa to U.S. Atlantic and Gulf ports, to permit the establishment of the spread or differential between contract and non-contract rates to be set forth in the conference tariff at a percentage within the range between 9.5 percent and 15 percent, instead of the presently approved spread or differential of 15 percent.

On April 10, 1973, the member lines of the conference filed an amended application under section 14b for permission to establish a spread or differential of 9.5 percent between contract and noncontract rates, instead of permission to fix a spread or differential at a percentage within the range between 9.5 and 15 percent previously applied for and published under above notice.

Dated April 12, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-7667 Filed 4-19-73;8:45 am]

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1015 or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, on or before April 30, 1973. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of amended application to modify an approved dual-rate system and form of contract filed by:

Charles F. Warren, Esq., 1100 Connecticut Ave. NW., Washington, D.C. 20036

On November 22, 1972, volume 37, No. 226, at page 24848, there was published in the FEDERAL REGISTER a notice of the submission of agreement No. 150 DR-3, an application on behalf of the member lines of the Trans-Pacific Freight Conference of Japan (agreement No. 150, as amended), for permission under section 14b to modify their approved dual-rate system and form of contract applicable to the trade from Japan, Korea and Okinawa to U.S. Pacific Coast ports, Alaska and Hawaii, to permit the establishment of the spread or differential between contract and noncontract rates to be set forth in the conference tariff at a percentage within the range between 9.5 percent and 15 percent, instead of the presently approved spread or differential of 15 percent.

On April 10, 1973, the member lines of the conference filed an amended application under section 14b for permission to establish a spread or differential of 9.5 percent between contract and noncontract rates, instead of permission to fix a spread or differential at a percentage within the range between 9.5 and 15 percent previously applied for and published under above notice.

Dated April 12, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-7666 Filed 4-19-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-7869]

ILLINOIS POWER CO.

Notice of Application, Termination and Cancellation

APRIL 11, 1973.

Take notice that on December 4, 1972, Illinois Power Co. (IP) filed notice of cancellation of the Interchange Agreement dated February 10, 1966, among Commonwealth Edison Co. (CE), Central Illinois Electric & Gas Co., and Illinois Power Co., under which IP supplies CE with electric energy used to provide electric service in CE's Homer and Bement, Ill. areas.

CE has agreed to sell its Homer and Bement properties to Central Illinois Light Co. (CILCO), and an application seeking Commission approval thereof is pending in docket No. E-7681. The Interchange Agreement will terminate concurrently with consummation of the sale purchase of the Homer and Bement properties.

On December 4, 1972, Illinois Power Co. also filed a facility use agreement between itself and CILCO, dated June 16, 1972. Pursuant to appendix D of that agreement, IP will sell CILCO electric energy to provide service in the Homer and Bement areas, to become effective upon consummation of the sale and purchase of the Homer and Bement properties.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determine the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7627 Filed 4-19-73;8:45 am]

[Docket No. CP73-256]

LONE STAR GAS CO.

Notice of Application

APRIL 11, 1973.

Take notice that on April 2, 1973, Lone Star Gas Co. (Applicant), 301 South Harwood Street, Dallas, Tex. 75201, filed in docket No. CP73-256 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks permission and approval to abandon the following gas purchase facilities:

1. A portion of line FX-473-T in Stephens County, Okla.: 3,971 feet which Applicant states is no longer necessary since the source of gas supply has been disconnected from Applicant's system and connected to the Exxon Corp.'s Velma gasoline plant from which the Applicant indicates it will obtain residue gas.

2. A portion of line FX-370-T in Stephens County, Okla.: 247 feet which Applicant states is no longer necessary since the source of gas supply has been disconnected from Applicant's system and will be connected to Skelly Oil Co.'s (Skelly) Velma gasoline plant from which the Applicant indicates it will obtain residue gas.

3. The terminal portion of line TD-A in Stephens County, Okla.: 4,657 feet which Applicant states is no longer necessary since the source of supply has been released to Skelly to connect to its Velma gasoline plant from which the Applicant indicates it will obtain residue gas.

4. A portion of line FX-461-T in Stephens County, Okla.: 4,118 feet which Applicant states is no longer necessary since the source has been physically disconnected by the operator since 1966 and no future deliveries are expected from the operator's well.

5. Approximately 1.84 miles of line ED in Grayson County, Tex., connecting a well which Applicant alleges has been nonproductive since January 1970 and has been disconnected by the operator due to declining pressure.

6. A portion of line S2B–C in Smith County, Tex.: 5,839 feet which Applicant states has been physically disconnected by the operator since the well ceased to produce in August 1971.

7. The terminal portion of line GL in Carter County, Okla.: 202 feet to a plant which Applicant indicates has been disconnected from its system and from which Applicant no longer anticipates any delivery.

8. A portion of line GDHC–A in Carter County, Okla.: 15,872 feet which Applicant indicates is no longer in use since the source of supply has been shut down, which Applicant no longer anticipates

9. The terminal portion of line 71–20–1 in Wichita County, Tex.: 3.1 miles which Applicant states is no longer necessary since either sources of supply and customers have been disconnected or services terminated. Applicant indicates that no further sales or gas purchases are anticipated in conjunction with this portion of the line.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 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 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commisson 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 permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–7628 Filed 4–19–73;8:45 am]

[Docket No. CP73–252]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

APRIL 11, 1973.

Take notice that on March 29, 1973, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in docket No. CP73–252 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue the sales of natural gas in interstate commerce to Arkansas-Louisiana Gas Co. from the North Lansing Field, Harrison County, Tex., heretofore authorized to be made by independent producers pursuant to rate schedules on file with the Commission, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to continue the following sales:

Independent producer	FPC gas rate schedule No.	Certificate docket No.	Price (cents per M ft³ at 14.65 lb/in²a)
Atlantic Richfield Co.	622	G–3894	13.4924
Delta Drilling Co.	6	G–4343	13.5090
Wiley Page	1	G–7738	19.1
J. C. Robbins, Jr.	2	G–7682	19.1
Sells Petroleum Co., Inc.	1	G–4533	19.1
Shell Oil Co.	7	G–5001	12.9083
Do.	8	G–5002	12.9083

Any person desiring to be heard or to make any protest with reference to said application should on or before May 4, 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 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–7626 Filed 4–19–73;8:45 am]

[Docket No. E–8115]

AMERICAN ELECTRIC POWER SERVICE CORP.

Notice of Proposed Changes in Rates and Charges

APRIL 11, 1973.

Take notice that on August 2, 1965, December 8, 1966, and March 30, 1967, American Electric Power Service Corp. (American) tendered for filing on behalf of Wheeling Electric Co. (Wheeling), respectively, a modification No. 1 to the 1963 transmission facilities agreement between Wheeling and Ohio Power Co. (Ohio), a transmission facilities agreement dated December 7, 1966, between the same parties, and a modification No. 2 to the 1963 agreement. American states that under these agreements Wheeling will provide, operate, and maintain certain transmission facilities between generating facilities owned by Ohio. American states in the August 2, 1965, filing that Ohio has agreed to pay Wheeling an additional $106,500 per year for the transmission service which payment is in accordance with Wheeling rate schedule FPC No. 4. According to American, under the terms of the December 7, 1966, agreement, Ohio agreed to pay wheeling an amount equal to the capital costs of the transmission facilities times 1.25 percent per month, which amounted to $189,000. American also states that payment under modification No. 2 would be in accordance with the Wheeling rate schedule FPC No. 4, which amounts to $195,604. Deficiency letters were sent to American regarding each of these filings. Filings were completed on January 14, 1971. American's filing of December 8, 1966, requested waiver of the notice requirements with respect to the filing of the December 7, 1967, agreement in order to permit an effective date of January 1, 1967.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 30, 1973. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7657 Filed 4-19-73;8:45 am]

[Docket No. E-8013]

BUCKEYE POWER, INC.

Notice of Proposed Changes in Rates and Charges

APRIL 12, 1973.

Take notice that Buckeye Power, Inc. (Buckeye), on March 26, 1973, filed additional supporting information for its filing of January 31, 1973, in this docket of supplement No. 9 to rate schedules FPC Nos. 3 through 29 inclusive, and supplement No. 8 to rate schedule FPC No. 30. In its March 26 filing, Buckeye also confirmed a request made by telegram to the Secretary on March 15, 1973, for a postponement of the proposed effective date of the above amendments from April 1, 1973, to May 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 23, 1973. Protests will be considered by the Commission in determining the appropirate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7650 Filed 4-19-73;8:45 am]

[Docket No. E-7918]

CAROLINA POWER & LIGHT CO.

Notice of Proposed Change in Rate Tariff

APRIL 13, 1973.

Take notice that on April 2, 1973, Carolina Power & Light Co. (Carolina) tendered for filing proposed changes in resale service schedule RS-9B. Carolina states that the amendments embody changes in the rates and charges so as to effectuate the settlement agreement as approved in docket No. E-7918. Carolina states that schedule RS-9B has been revised to eliminate the requirement that service under the schedule is for use by the customer or for resale to its ultimate consumers. Carolina proposes that this filing become effective for service rendered on and after March 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street, NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7645 Filed 4-19-73;8:45 am]

CITIES SERVICE GAS CO.

Notice of Proposed Changes in Rates and Charges

APRIL 11, 1973.

Take notice that on April 2, 1973, Cities Service Gas Co. (Cities) tendered for filing with its FPC Gas Tariff each of the following revised tariff sheets:

Third revised sheet No. 1A.
Seventh revised sheet No. 3.

10th revised sheel No. 43.
10th revised sheet No. 44.
10th revised sheet No. 45.
10th revised sheet No. 46.
Ninth revised sheet No. 47.
Seventh revised sheet No. 48.
Sixth revised sheet No. 49.
Sixth revised sheet No. 50.
Fourth revised sheet No. 51.
Second revised sheet No. 52.
First revised sheet No. 53.

Cities states that a copy of these tariff sheets has been mailed to all of the company's resale customers and to the regulatory commissions of the States of Kansas, Mississippi, Nebraska, Oklahoma, and Texas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 27, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7655 Filed 4-19-73;8:45 am]

[Docket No. E-8105]

CONNECTICUT LIGHT & POWER CO.

Notice of Proposed Changes in Rates and Charges

APRIL 11, 1973.

Take notice that Connecticut Light & Power Co. (Connecticut) on April 2, 1973, tendered for filing a proposed purchase agreement between Connecticut, Hartford Electric Light Co., Western Massachusetts Electric Co., New Bedford Gas, and Edison Light Co.

The company requests that the Commission waive the 30-day notice period to permit the rate schedule to become effective on March 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 23, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7652 Filed 4-19-73;8:45 am]

[Docket No. RP72-6]

EL PASO NATURAL GAS CO.

Order Setting Date for Hearing and Granting Intervention

APRIL 13, 1973.

On January 10, 1973, the city of Mesa, Ariz. (Petitioner) filed its petition with the Commission seeking extraordinary relief from the effects of the interim curtailment plan heretofore approved by the Commission[1] and currently in effect on the Southern Division System of El Paso Natural Gas Co. (El Paso).

After due notice by publication in the FEDERAL REGISTER on February 7, 1973 (38 FR 4290), a petition for leave to intervene was jointly filed by American Smelting and Refining Co., Compania Minera de Cananea, S.A. de C. V., Inspiration Consolidated Copper Co., and Kennecott Copper Corp. (Interveners). Interveners state that any relief granted petitioner will necessarily increase curtailments which must be borne by El Paso's other customers including themselves.

[1] Opinion 634, issued Oct. 31, 1972, opinion and order prescribing interim emergency curtailment plan: opinion 634-A, issued Dec. 15, 1972, opinion and order clarifying opinion, denying motions for stay, and denying rehearing.

Petitioner alleges that while El Paso is contractually obligated to deliver only 13,000 M ft³/d, that its daily requirements are in excess of 23,000 M ft³/d. Petitioner states that the interim plan is clarified by Opinion 634–A measures curtailments from requirements up to maximum daily delivery obligations and therefore allocates to petitioner less natural gas than is necessary to meet its existing residential and small commercial load which allegedly exceeds 22,000 M ft³/d. Consequently, petitioner requests that its allocation be increased to its current peak requirements of approximately 23,000 M ft³/d or at least to its 1971 peak of 21,708 M ft³/d.

The Commission finds

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing to determine whether the public convenience and necessity require the grant of the extraordinary relief sought.

(2) Participation by the above-named interveners in this proceeding may be in the public interest.

The Commission orders

(A) Pursuant to the authority of the Natural Gas Act, the Communion's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing on May 8, 1973, at 10 a.m., e.d.t. in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, to determine whether extraordinary relief is required.

(B) On or before April 23, 1973, the city of Mesa, Ariz., shall prepare and file with the Commission and serve on all parties, including staff, testimony, and exhibits in support of its request for extraordinary relief. Any other party herein choosing to file evidence and exhibits shall make them available to all participants at the beginning of the hearing and should endeavor to make such materials available at an earlier date if possible.

(C) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for the purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) The above-named parties are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such interveners shall be limited to matters affecting rights and interests as specifically set forth in their joint petition: *and provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7649 Filed 4-19-73;8:45 am]

[Docket No. E-7488]

IOWA PUBLIC SERVICE CO.

Notice of Application

APRIL 11, 1973.

Take notice that on January 17, 1973, Iowa Public Service Co. (Applicant) filed a supplemental application pursuant to section 204 of the Federal Power Act seeking authority to issue $22 million of short-term unsecured promissory notes to commercial banks and commercial paper dealers. All proposed notes are to be issued on or before March 31, 1974 and will bear final maturity dates not later than March 31, 1975.

The application states that the bank notes will bear interest at the prime rate in effect at the lending bank at the date of each borrowing. The commercial paper, having maturities not to exceed 270 days, will be sold directly to commercial paper dealers and will bear interest rates determined by the market conditions at the time of each borrowing. The aggregate amount of commercial paper outstanding at any one time will not exceed 25 percent of the Applicant's gross revenues for the 12 months preceding November 30, 1972, or $21 million.

Applicant proposes to use the funds for construction or acquisition of permanent improvements, extensions and additions to Applicant's property and/or to pay off maturing short-term loans. Its estimated construction expenditures for the 3-year period 1973–1975 is $62.4 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 20, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7653 Filed 4-19-73;8:45 am]

[Docket No. E-8106]

IOWA SOUTHERN UTILITIES CO.

Notice of Application

APRIL 12, 1973.

Take notice that on April 2, 1973, Iowa Southern Utilities Co. (Company) filed an application for an order pursuant to section 203 of the Federal Power Act authorizing the sale of approximately 19.4 miles of 69 kV line between Oskaloosa, Iowa and the Company's Poweshiek substation, near Searsboro, Iowa. The purchaser of the line will be Iowa Power & Light Co., Des Moines, Iowa.

The Company is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa and is engaged in the electric utility business in 24 counties in Iowa.

The line to be sold was formerly one of the Company's major support sources into the Grinnell and Newton, Iowa areas. The installation of the Poweshiek Substation on a 161 kV line causes the substation to be the major supply source to the Grinnell and Newton, Iowa areas. Therefore, the line becomes of no particular value in the Company's supply to the Grinnell and Newton, Iowa areas but does retain its value as a supply source for Oskaloosa, Iowa, a town served by Iowa Power & Light Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 30, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7651 Filed 4-19-73;8:45 am]

[Docket No. CP73-257]

NORTHERN NATURAL GAS CO.

Notice of Application

APRIL 11, 1973.

Take notice that on April 3, 1973, Northern Natural Gas Co., 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP73-257 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Montana-Dakota Utilities Co. from the Poison Creek Area, Fremont County, Wyo., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell gas at 26.0 cents per M ft³ at 15.025 lb/in² subject to upward and downward Btu adjustment. Maximum adjustment is limited to 3 cents per M ft³.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 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 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7656 Filed 4-19-73;8:45 am]

[Docket No. AR61-1, etc.]

NORTHERN NATURAL GAS CO.

Notice of Filing of Proposed Refund Plan

APRIL 13, 1973.

Take notice that on June 20, 1969, as amended July 3, 1969, Northern Natural Gas Co. (Northern) filed its report of intended disposition of refunds and interest received by Northern from independent producers. The refund plan was filed pursuant to ordering paragraph (K) of the Order implementing opinion Nos. 468 and 468-A, issued August 9, 1968 (40 FPC 242, at 246) in docket No. AR61-1 et al. Northern, by its report, intends to refund a total of $1,001,135.41 to its jurisdictional customers which is the total of (1) $828,500.55, the jurisdictional portion of $1,011,446.00, the amount received by Northern from producers in the Permian Basin area for the period from May 1, 1959, to September 1, 1965; and (2) $172,634.86, an equivalent rate reduction for the period June 27, 1968, to February 10, 1969, as a result of docket No. G-19040.

In addition to the above, Northern received $2,029,067.23 from the Permian Basin producers for the period of September 1, 1965, to July 1, 1968, which it has retained. Northern claims that its settlement agreement in docket No. RP67-20 governs flow through of refunds for this period. Northern further states that the $2,029,067.23 is entirely the result of producer rate proceedings under section 5(a) of the Natural Gas Act in which case the agreement requires flow through of such refunds only if the effect of the producer refunds received is to reduce the annual unit cost of purchased gas below a specified unit cost. Northern's report alleges that the $2,029,067.23, when applied against purchased gas costs, does not sufficiently reduce the unit costs so as to require a flow through of such producer refunds to Northern's jurisdictional customers.

Northern's proposed refund plan is on file with the Commission and is available for public inspection. Comments or protests, with appropriate supporting data, should be filed with the Commission on or before May 3, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7646 Filed 4-19-73;8:45 am]

[Docket No. RP73-64]

SOUTHERN NATURAL GAS CO.

Order Accepting for Filing and Suspending Purchased Gas Adjustment Clause, and Permitting Interventions

APRIL 10, 1973.

Southern Natural Gas Co. (Southern), on January 17, 1973, tendered for filing proposed changes in its FPC gas tariff, sixth revised volume No. 1, to become effective as of January 1, 1973.[1] The proposed changes are filed pursuant to § 154.38(d)(4) of the Commission's regulations under the Natural Gas Act and are in response to the Commission's order of December 29, 1972, in which the Commission rejected, without prejudice, Southern's purchased gas adjustment (PGA) clause tendered on December 1, 1972. Southern requests that certain tariff sheets tendered on December 1, 1972,[2] be incorporated with the tariff sheets tendered on January 17, 1973, to form the complete purchased gas adjustment (PGA) clause.

Southern states that in order to meet the Commission's objections to its December 1, 1972, filing, it has eliminated the 0.162c/M ft³ rate increase previously proposed to become effective on January 1, 1973, has eliminated company-owned production from leases acquired prior to October 7, 1969, from the operation of the PGA clause, and has clarified the proposed effective dates of surcharge adjustments which are to be made on January 1 and July 1 of each year. Southern requests that the Commission waive the notice requirements of section 154.22 of the Commission's regulations and permit the proposed tariff changes to become effective as of January 1, 1973.

Copies of the January 17 rate filing were served on Southern's jurisdictional customers and interested State commissions. The Commission issued notice of the filing on February 9, 1973, which was published in the FEDERAL REGISTER on February 21, 1973 (38 FR 4733). Petitions for leave to intervene in this proceeding were filed by Atlanta Gas Light Co. (Atlanta), and by Georgia Industrial Group (GIG).[3] Atlanta requests that this proceeding be consolidated with the proceedings in phase II of Southern's pending rate case in docket No. RP72-91, et al., so that the appropriateness of the base rate contained in the PGA tariff sheets may be determined. GIG states that the proposed tariff sheets should be suspended for the maximum statutory period and that the matter should be set for formal hearing and consolidated with docket No. RP72-91, et al. Neither petitioner asserts any specific objection to the proposed PGA clause.

A review of the filing indicates that, with the modifications made by Southern in response to our order of December 29, 1972, the proposed PGA clause complies in all respects with § 154.38(d)(4) of the Commission's regulations under the Natural Gas Act and should be accepted for filing. However, in view of the fact that the Commission's determination of just and reasonable rates for Southern is pending in docket No. RP72-91 et al. we shall suspend Southern's PGA clause for 1 day and require Southern to adjust the base tariff rates contained in its PGA clause to the level of rates finally determined by the Commission in those proceedings. Accordingly, there appears to be no justification or need for providing for consolidation or hearing with respect to the rate filing as requested by the petitioners.

The Commission finds

(1) Good cause has been shown for granting Southern's request for waiver of the notice requirements of section 154.22 of the regulations.

(2) It is necessary and appropriate in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the proposed tariff sheets described above be accepted for filing and suspended until January 2, 1973, and that the petitioners' requests for consolidation and hearing be denied, as hereinafter ordered and provided.

The Commission orders

(A) Southern's request for waiver of the notice requirements of § 154.22 of the regulations is granted.

(B) The tariff sheets tendered for filing by Southern on January 17, 1973, together with the tariff sheets tendered on December 1, 1972, as incorporated by reference by Southern, containing its PGA clause, are accepted for filing, and suspended until January 2, 1973.

[1] First revised sheets Nos. 4A, 45A, 45D, and 45E to its FPC gas tariff, 6th revised vol. No. 1.

[2] Original sheets Nos. 30A, 45B, and 45C; 1st revised sheets Nos. 8F, 15F, and 26F; 2d revised sheet No. 11K; 3d revised sheets Nos. 11, 11G, 18, and 29; 12th revised sheet No. 1; 17th revised sheet No. 11J; and 18th revised sheets Nos. 8D, 15D, and 26D; to its FPC gas tariff, 6th revised vol. No. 1.

[3] American Industrial Clay Company of Sandersville, Anglo-American Clays Corp., Burgess Pigment Co., Chemical Products Corp., Cherokee Brick & Tile Co., Engelhard Minerals & Chemicals Corp., Georgia Kaolin Co., Glass Containers Corp., Griffin Pipe Products Co. (AMSTED Industries Inc.), National Biscuit Co., Southwire Co., Thiel Kaolin Co., and Thompson, Weinman and Co.

(C) Upon final order of the Commission in docket No. RP72-91 et al. Southern shall adjust the base tariff rates contained in its PGA clause to the level of the just and reasonable rates determined in those proceedings.

(D) Atlanta's request for consolidation, and GIG's request for hearing are denied.

(E) Atlanta and GIG are permitted to intervene herein, subject to the Commission's rules and regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-7647 Filed 4-19-73;8:45 am]

[Docket No. CP73-57]

SOUTHERN UNION GAS CO.

Order Providing for Hearing and Establishing Procedures

APRIL 13, 1973.

On August 30, 1972, Southern Union Gas Co. (Southern Union) filed an application pursuant to section 7(a) of the Natural Gas Act requesting that the Commission issue an order requiring El Paso Natural Gas Co. (El Paso) to sell and deliver, through existing facilities, up to 9,000 M ft³ per day for distribution and resale by Southern Union in the city of Borger, Tex.

Southern Union states that in the past the total needs of the city of Borger were served by an isolated segment of its system, which was supplied by local production. Southern Union contends that this local production has declined to the point that an additional source of supply is required to meet firm residential and commercial requirements. Southern Union requests that El Paso be required to deliver on a firm basis up to 9,000 M ft³ per day with an annual requirement of an estimated 1,050,100 M ft³ utilizing the existing facilities.

In docket No. CP71-154, El Paso was authorized to construct facilities necessary to provide Southern Union with gas on an emergency stand-by basis for the 1970-71 heating season. This emergency service was limited to a maximum of 7,000 M ft³ per day and a total of 500,000 M ft³ through September 30, 1971. Emergency service was later provided for the 1971-72 and 1972-73 heating seasons. Southern Union contends that by virtue of the application issued to El Paso in docket No. CP71-154 for the emergency service, it is an existing customer of El Paso and thereby has the same rights of any other existing customer to request additional volumes of gas for the protection of residential and commercial consumers. Southern Union also avers that it is unable to secure an additional supply of gas from local sources.

El Paso states that because its current supply is not sufficient to meet the estimated monthly average day requirement of its existing customers it could not voluntarily assume the additional obligation but that it would not oppose the issuance of an order directing such service. El Paso commenced curtailment on October 30, 1972, and has had daily curtailments ranging from 200,000 M ft³ to almost 800,000 M ft³.

Based on the pleadings, we believe that an evidentiary hearing should be held to establish the facts upon which we can decide whether the public convenience and necessity requires the issuance of a certificate for the services requested during this time of a national gas supply shortage. Accordingly, we will order that a formal hearing be convened and establish the procedures therefor.

The Commission finds

Good cause exists for the Commission to enter upon a hearing concerning Southern Union's request for an order directing El Paso to serve it a firm and permanent supply of natural gas as set forth in its application filed on August 30, 1972.

The Commission orders

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR ch. I), a public hearing shall be held commencing May 1, 1973, at 10 a.m. e.d.t. in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the propriety of issuing an order directing El Paso to serve Southern Union on a firm and permanent basis a supply of natural gas as requested in the application filed herein on August 30, 1972.

(B) On or before April 19, 1973, Southern Union shall serve its testimony and exhibits comprising its case-in-chief in support of its application on all parties to this proceeding and El Paso and all other parties may file and serve upon all parties answering testimony and exhibits on or before April 26, 1973.

(D) The emergency service, imposed by § 157.22, which expired May 15, 1973, may be continued pending a final decision on Southern Union's application.

(E) A presiding administrative law judge to be designated by the chief administrative law judge for that purpose [see delegation of authority, 18 CFR 3.5 (d)] shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-7648 Filed 4-19-73;8:45 am]

[Docket No. RP72-89]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Proposed Changes in Tariff

APRIL 10, 1973.

Take notice that on March 30, 1973, and April 2, 1973, respectively, Columbia Gas Transmission Corp (Columbia) tendered for filing as part of its FPC gas tariff, original volume No. 1, substitute first revised sheet No. 91 and second revised sheet No. 91.

Substitute first revised sheet No. 91 was filed in compliance with the Commision's letter-order of February 5, 1973, requiring Columbia to reduce the maximum monthly volumes for Delta Natural Gas of Stanton, Inc. (Delta) from 419,600 M ft³ to 319,600 M ft³. This tariff sheet bears an effective date of November 1, 1972.

Second revised sheet No. 91 adjusts the maximum monthly volumes for Delta from a 12-month total of 319,600 M ft³ to 419,600 M ft³. Columbia states that its submission is for the purpose of accommodating an inadvertent omission of certain volumes that should have been included as part of the maximum monthly volumes for Delta and is necessary to correct the error in original sheet No. 91 to recognize respective commitments by Columbia and Delta made in 1970.

According to Columbia, the adjustment of Delta's maximum monthly volumes will enable Columbia to effectuate its commitment to Delta, which is especially important because of the substantial dollar investment made by an existing customer of Delta in its plant expansion. This adjustment would avoid the possible incurrence by Delta of substantial penalties for deliveries in excess of its maximum monthly volumes on original tariff sheet No. 91 included as a part of its settlement agreement approved by the Commission's order issued September 29, 1972. Columbia anticipates that Delta could overrun the 5-month total of its maximum monthly volumes during the current 1972-73 winter period to an extent which could result in the payment of penalties by Delta aggregating approximately $250,000.

Columbia further states that Delta's customer is a firm customer, subject to curtailment only during days of peak demand and only to protect the "human needs" customers of Delta. The customer has about 4 to 5 days of alternate fuel capabilities which can not produce the quality brick that the plant is designed for and which constitutes a vast majority of its production.

Columbia requests that the Commission waive the notice requirements of § 154.22 of the regulations to the extent necessary to make second revised sheet No. 91 effective on November 1, 1972. Copies of the above filings have been served upon all of Columbia's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 441 G Street, NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 23, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-7630 Filed 4-19-73;8:45 am]

[Docket No. CI73-665]

EXCHANGE OIL & GAS CORP.

Notice of Application

APRIL 12, 1973.

Take notice that on April 2, 1973, Exchange Oil & Gas Corp. (Applicant), 1010 Common Street, New Orleans, La., 70112, filed in docket No. CI73-665 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. from the Vermilion Block 16 area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to commence the sale of natural gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for 2 years from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell approximately 186,840 M ft³ of gas at 45 c/M ft³ at 15.025 lb/in².

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7643 Filed 4-19-73;8:45 am]

[Docket No. CI73-642]

FELMONT OIL CORP.

Notice of Application

APRIL 10, 1973.

Take notice that on March 28, 1973, Felmont Oil Corp. (Applicant), 6 East 43d Street, New York, N.Y. 10017, filed in docket No. CI73-642 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Columbia Gas Transmission Corp. (Columbia) from the Pineton Field, Indiana and Cambria Counties, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Columbia from the Pineton field for as long as the field produces gas in commercial quantities at a rate of 45 cents per M ft³ at 14.73 lb/in²a. Applicant requests pregranted abandonment authorization.

Applicant asserts that the 45-cent proposed price for this gas will provide less costly and more reliable gas supplies than alternate sources of pipeline gas such as the importation of liquefied natural gas, domestic production of synthetic pipeline gas, domestic coal gasification proposals and Alaskan natural gas, which have been certificated by the Commission, are now pending before the Commission or are under active consideration by pipeline companies. Applicant also alleges that the instant price will encourage further exploration and development in the Appalachian Basin area. Applicant states that from 1962 until 1970 the prevailing price set by the Commission for sales from the Appalachian region did not justify the risk of exploring its untested leasehold acreage but that the prospects of higher prices have encouraged Applicant to renew its exploratory operations in the Pineton area. Applicant asserts that the proposed sale is justified in light of the prices being paid for natural gas in the intrastate market, as evidenced by recent findings that gas prices of 43 to 53 cents per M ft³ prevail in the Appalachian region. Applicant also states that the 45-cent price takes into account over 7 miles of piping used as gathering lines to interconnect the existing Pineton wells at an estimated cost for Applicant's share of $125,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 1, 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7633 Filed 4-19-73;8:45 am]

[Docket No. CI73-639]

ATLANTIC RICHFIELD CO.

Notice of Application

APRIL 10, 1973.

Take notice that on March 26, 1973, Atlantic Richfield Co. (Applicant), P.O. Box 2819, Dallas, Tex. 75221, filed in docket No. CI73-639 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Southern Natural Gas Co. (Southern) from the South Pass Block 61 Field, Plaquemines Parish, La., and offshore Louisiana at 45 cents per M ft³ at 15.025 lb/in²a subject to upward and downward Btu adjustment, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant estimates that by the end of 1973 approximately 30,000 M ft³ of casinghead gas per day will be available for sale but states that reserves in the field cannot be demonstrated and agreed upon prior to commencement of construction of Southern's offshore supply lateral since certain of Applicant's geological, geophysical, and production data must be kept confidential until the field

has been fully defined. In order to permit Southern to proceed with the construction of its pipeline facilities in the absence of such data, Applicant states that it will underwrite a portion of Southern's pipeline construction costs in the event gas reserves established as of December 1, 1981, in support of the pipeline do not amount to at least 145,000,000 M ft³. Reimbursement would be the product of the ratio of 145,000,000 M ft³ less pipeline support gas to 145,000,000 M ft³ times the pipeline value of Southern's South Pass Block 60 extension. Applicant states further that Southern will supply facilities to compress Applicant's gas and that Applicant will operate these at its own expense.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 1, 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7636 Filed 4-19-73;8:45 am]

[Docket No. CI73-674]

JONES & PELLOW OIL CO.

Notice of Application

APRIL 12, 1973.

Take notice that on April 6, 1973, Jones & Pellow Oil Co. (Applicant), 2821 Northwest 50th Street, Oklahoma City, Okla. 73112 filed in docket No. CI73-674 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Company of America from the N. E. Alden Bromide Unit, Caddo County, Okla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on March 15, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act and proposes to continue said sale for 3 years from said date within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell approximately 90,000,000 Btu of gas per month at 52 cents per million Btu at 14.65 lb/in²a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7644 Filed 4-19-73;8:45 am]

[Docket No. E-8117]

KANSAS GAS & ELECTRIC CO.

Notice of Application

APRIL 13, 1973.

Take notice that on April 9, 1973, Kansas Gas & Electric Co., a West Virginia corporation (the Company), and Kansas Gas & Electric Co., a Kansas corporation (the New Company), filed an application with the Federal Power Commission seeking an order pursuant to section 203(a) of the Federal Power Act to merge into a single corporation with the New Company being the surviving corporation.

The Company, with its principal place of business at Wichita, Kans., is engaged in providing electrical energy to the southeastern quarter of the State of Kansas with an estimated population of 584,000.

The New Company, a wholly owned subsidiary of the Company, has been incorporated for the sole purpose of furnishing a vehicle for transferring the corporate domicile of the Company from the State of West Virginia to the State of Kansas. The New Company is not presently engaged in any business activity, and neither owns nor operates any facilities. On the effective date of the merger, the New Company will assume the ownership and operation of all of the facilities and business now owned and operated by the Company. No change in the method of operation will result from the proposed merger.

As a result of the proposed merger: (i) The Company will cease to exist as a corporate entity; (ii) the New Company will succeed to all of the rights and properties, and assume all of the obligations and liabilities (including all funded debt) of the Company; (iii) each outstanding share of common stock and of preferred stock of each class and series of the Company will automatically be converted into and become, respectively, a like share of the outstanding common stock or preferred stock of such class and series of the New Company; and (iv) the presently outstanding stock of the New Company (now held by the Company) will be acquired by the New Company and restored to the status of authorized but unissued stock. No other consideration will be given for the merger.

The applicants believe that the proposed merger will be consistent with the public interest for the following reasons:

1. Incorporation in Kansas will promote better understanding of the Company by Kansas State and local government authorities and by its customers, stockholders, and the public generally. Although the Company was incorporated under the laws of West Virginia in 1909, its service area and all of its facilities are located in the State of Kansas. The Company has been qualified as a foreign corporation in the State of Kansas since 1910. Since then, the Company has carried on its business in accordance with the laws of the State of Kansas. Its services, rates, accounting, issuance of stock, bonds, and other long-term debt and various other matters are subject to regulation by the State corporation commission of Kansas.

2. After the change, the Company's business will be subject only to the corporation laws of the State of Kansas and

the Company will be relieved of West Virginia taxes and miscellaneous expenses incident to compliance with its laws. No additional annual taxes will be payable to the State of Kansas as a result of the change.

3. The issuance of stock, bonds, and other long-term debt by the Company is now subject to regulation by both the State corporation commission of Kansas and the Federal Power Commission. The change will exempt the New Company from such duplicative regulation by the Federal Power Commission and the attendant expenses. Regulation by the State corporation commission will continue.

4. The change can be effectuated through the proposed merger without any alteration in the charter rights of stockholders or the indenture rights of the holders of outstanding debt, and their interests would be advanced by reason of the above considerations.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 1, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7639 Filed 4-19-73;8:45 am]

[Docket No. CP73-254]

McCULLOCH INTERSTATE GAS CORP.

Notice of Application

APRIL 10, 1973.

Take notice that on March 30, 1973, McCulloch Interstate Gas Corp. (Applicant), 10880 Wilshire Boulevard, Los Angeles, Calif. 90024, filed in docket No. CP73-254 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction from April 1, 1973, through March 31, 1974, and operation of natural gas facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various areas generally coextensive with said system.

The total cost of the facilities proposed would not exceed $175,000, and the cost of any single project would not exceed $44,000. The facilities would be financed with working funds supplemented by short term loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 1, 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 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7632 Filed 4-19-73;8:45 am]

[Docket No. RP72-118]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Remanding Settlement Agreement To Presiding Administrative Law Judge

APRIL 10, 1973.

On December 7, 1972, the Presiding Administrative Law Judge certified to the Commission for approval a proposed settlement agreement, together with supporting testimony and exhibits and affidavits of witnesses and statements of the parties with respect to the settlement proposal, all of which were made a part of the record at a hearing held on December 5, 1972. The initial certification was supplemented on December 14 and 18, 1972. The terms and conditions of the settlement are set forth in a proposed stipulation and agreement, also made a part of the record (Tr. 99-113). If approved, the stipulation and agreement would resolve all issues in this proceeding. The settlement rates would result in a reduction of $7.7 million annually in the presently effective jurisdictional rates of Michigan Wisconsin Pipe Line Co.

This proceeding involves a general rate increase application filed by Michigan Wisconsin on April 28, 1972, requesting an increase in rates for jurisdictional natural gas sales and service of $29.9 million annually, based on sales for the 12-month period ending January 31, 1972, as adjusted. The Commission, by order issued May 31, 1972, suspended the proposed rate increase for the maximum statutory period of 5 months, following which the increased rates became effective subject to refund on November 1, 1972.

Following service of the staff's cost and rate proposals, conferences were held among representatives of Michigan Wisconsin, its customers, the Commission's staff, and other parties to the proceeding. The stipulation and agreement here under consideration is the result of those conferences. The principal provisions of the stipulation and agreement may be summarized as follows:

(1) Articles I and II provide that Michigan Wisconsin will refund to its customers the difference between the rates originally filed and the rates reflecting the reduced settlement cost of service, and to be refundable on the basis of the historical revenue pattern upon which Michigan Wisconsin's originally requested increased rates were based (stipulation and agreement, appendix B). The refund will cover the period from November 1, 1972, through the first complete billing month following approval of the settlement by the Commission. Thereafter, Michigan Wisconsin will charge the redesigned rates shown in appendix C of the stipulation and agreement. (The design of the appendix C rates is discussed at a later point herein).

(2) Articles III, IV, V, and VI of the stipulation and agreement provide for changes in Michigan Wisconsin's rates to reflect changes in advance payments for gas (articles III and IV), safety program expenditures (articles III and V), and Federal income taxes (article VI). The changes related to advance payments and safety programs may be made only if they amount to 1 mill or more and may be filed (1) concurrently with a rate change to track changes in the cost of purchased gas as authorized by section 15 of Michigan Wisconsin's FPC gas tariff, or (2) if no rate adjustment has been filed for a 6 month period. Any adjustments to rates resulting from advance payments and safety expenditures shall be applied solely to the commodity component of Michigan Wisconsin's rates.

(3) Article VII provides that Michigan Wisconsin will modify its tariff provision relating to annual overrun penalties to allow a distributor to take 1/365th of annual entitlement as annual

overrun, without penalty, provided the distributor reduces his annual entitlement for the succeeding year by a volume equal to such overrun.

(4) Article VIII provides that if Michigan Wisconsin's application to amend the certificate issued in docket No. CP72-175 to provide increased contract demand service is approved, Michigan Wisconsin will credit its unrecovered purchase gas account with $361,354 to be offset by 14.454c/M ft³ of gas transported by Trunkline Gas Co. during the 1972-73 winter season, up to a maximum of $361,354. This accounting recognizes that Michigan Wisconsin may have increased revenues relating to the proposed changes in service. If the proposed certificate amendments become effective on November 1, 1972, as requested, Michigan Wisconsin's unrecovered purchased gas account will be credited by an additional $105,427.

(5) Articles IX and X provide that the settlement agreement will terminate on the date that the rates established thereby are superseded by rates made effective pursuant to sections 4 or 5 of the Natural Gas Act. Michigan Wisconsin may not file increased rates which will become effective prior to November 1, 1973, except for tracking increases allowed by articles IV, V, and VI.

The proposed settlement is based on a jurisdictional cost of service of $443,880,201, including a rate of return of 8.75 percent which would yield 11.46 percent on equity. The settlement cost of service is set forth in appendix A to the stipulation and agreement.

With respect to the issues of cost classification and rate design, the record indicates that the settlement rates represent a compromise between rates based on historical revenue patterns, as filed by Michigan Wisconsin, and rates based on the unmodified Atlantic Seaboard formula as presented by the staff. (Exh. 38.)

The compromise provides for an increase of 3.2 cents per M ft³ over and above the prefiling commodity charge and results in a commodity level which is halfway between prefiling and unmodified Seaboard rates. The resulting commodity rate is higher than it woud have been had the total amount of the increase been added to the commodity component, and the settlement rates would result in a reduction in the prefiling demand component.

In support of the settlement rate design, Michigan Wisconsin argues that the reasons underlying the Commission's approval of the unmodified Atlantic Seaboard formula in opinion 600-A, El Paso Natural Gas Co., are not present in this case due to differences between the El Paso and Michigan Wisconsin systems. Michigan Wisconsin points out that unlike El Paso, it makes no industrial or boiler fuel sales. Instead of selling summer valley gas at low prices for low-priority uses, Michigan Wisconsin states that it uses the summer capacity to fill its storage fields and in turn supply the winter season requirements of its distributor customers. Michigan Wisconsin goes on to point out that the imposition of unmodified Seaboard rates would have an effect opposite to that intended in El Paso, inasmuch as such rates would make the further development of storage economically less feasible and would therefore operate as a disincentive to expanded storage operations. Michigan Wisconsin's customers generally stress the possible dislocations and disruptive effects of an abrupt change in historical rate patterns.

While Michigan Wisconsin makes no direct industrial or boiler fuel gas sales, distributors served by Michigan Wisconsin sell gas for industrial uses (docket No. CP73-114, statement I). As to Michigan Wisconsin's argument concerning storage, we find nothing in the unmodified Seaboard rate design which would bar further storage development by Michigan Wisconsin or its customers or which would make existing storage by either uneconomic.

Since the 1950's and continuing through the mid-1960's, the Commission encouraged increased gas sales by the interstate pipelines. By lowering the commodity rate level below Seaboard commodity costs and increasing the demand rate proportionately (a practice which became known as "tilting" the rate) the Commission was able to establish pipeline rate structures to meet the price of competitive fuels thus enabling pipeline and their customers to retain and acquire industrial interruptible loads.[1] The practice of tilting rates was common since it is generally recognized that the pipeline commodity rate serves as the floor for distributor's industrial rates.[2] With the present energy crises the costs of alternate fuels vis-a-vis natural gas have increased so rapidly that there is now a wide disparity between the two. A movement back to straight Seaboard rates by increasing the commodity component of pipeline rates will narrow to a small extent the price gap between natural gas and other fuels available for industrial use. This "untilting" will result in pricing natural gas more in line with costs and removing the discount which the tilted rate was intended to produce in order to meet competitive fuel prices of the 1950's and 1960's. Also, Seaboard rates will produce lower demand rates than tilted Seaboard lessening the distributors' incentive to make increased industrial sales.[3]

Accordingly, pending future decision based upon a complete evidentiary hearing record in individual pipeline cases, the minimum rate design acceptable to this Commission shall be the unmodified Seaboard rate design. We stress, however, that it may be necessary, after hearing and decision on the rate design issue, to depart from straight Seaboard rates in order to obtain commodity rate levels which more nearly reflect present market conditions.

We further note that the settlement cost of service includes the amount of $575,000 attributable to option payments (delay rentals) for the future purchase of coal reserves. However, there is nothing in the record to show how such payments benefit the natural gas consumer or assure that the natural gas consumer would be the beneficiary of the options if exercised. Accordingly, the $575,000 attributable to coal option payments should be eliminated from any settlement submitted in this proceeding. This is without prejudice to Michigan Wisconsin's right to file a request for authority to include in its rates coal option payments which request will be considered on its merits for prospective application.

Arco Chemical Co. which purchases gas supplied by Michigan Wisconsin for use as feedstock in its fertilizer plant located in Ft. Madison, Iowa, filed certain comments pertaining to the proposed settlement after the record was closed. In view of our action herein remanding the proposed settlement there is no need to address ourselves to such comments at this time.

The Commission finds

(1) For the reasons stated herein, the proposed stipulation and agreement may not be in the public interest and should be remanded to the presiding judge as hereinafter provided.

The Commission orders

(A) The proposed stipulation and agreement is hereby remanded to the presiding administrative law judge, subject to resubmission by the parties of a settlement agreement consistent with the statements of the Commission herein.

(B) A prehearing conference shall be held on April 24, 1973, commencing at 10 a.m. (e.s.t.), in a hearing room of the Federal Power Commission. Consideration shall be given to the reopening of settlement discussions for the purposes indicated herein. If a hearing is necessary, the presiding judge shall fix dates for the submission of evidence and hearings thereon.

[SEAL] KENNETH F. PLUMB,[4] *Secretary.*

[FR Doc.73-7638 Filed 4-19-73;8:45 am]

[Docket No. CP73-251]

MISSISSIPPI RIVER TRANSMISSION CORP.

Notice of Application

APRIL 10, 1973.

Take notice that on March 28, 1973, Mississippi River Transmission Corp.

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[1] See *United Gas Pipe Line Company*, 31 F.P.C. 1180, 1200. Also *American Louisiana Pipe Line Company*, 29 F.P.C 932, 944; *Natural Gas Pipe Line Company*, 28 F.P.C. 730; and *Midwestern Gas Transmission Company*, 21 F.P.C. 653, 658.

[2] *Midwestern Gas Transmission Company* v. *F.P.C.*, 374 F. 2d 842, 850 (1967).

[3] To achieve the same unit cost of purchased gas with higher demand charges a distributor must make increased valley (usually industrial) sales of natural gas.

[4] Commissioner Brooke dissenting, filed a separate statement, which is filed as part of the original document.

(Applicant), 9900 Clayton Road, St. Louis, Mo. 63124, filed in docket No. CP73-251 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing June 1, 1973, and operation of certain natural gas purchase facilities all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with said system and in continuing the purchase and receipt of gas supplies which are already connected to its system.

The total cost of the proposed facilities is not to exceed $1 million with no single project in excess of $250,000 which cost Applicant states will be financed from funds on hand and funds generated through normal operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 1, 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 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 73-7634 Filed 4-19-73;8:45 am]

[Docket No. CP71-18]

NEW ENGLAND LNG CO., INC.

Notice of Petition to Amend

APRIL 10, 1973.

Take notice that on March 28, 1973, New England LNG Co., Inc. (Petitioner), 95 East Merrimack Street, Lowell, Mass. 01853, filed in docket No. CP71-18 a petition to amend the order of the Commission issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing Petitioner to transport and sell liquefied natural gas (LNG) for an additional year, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized on January 14, 1971, in the subject docket, to render LNG service to distributors in New England until March 31, 1973. Petitioner states that several of its customers did not take their entire contract entitlements during the 1972-73 winter; and, therefore, Petitioner will have LNG in storage which will be available for transportation and sale during the forthcoming year. Accordingly, Petitioner requests that its certificate authorization be extended for an additional year.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 1, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7635 Filed 4-19-73;8:45 am]

SUPPLY-TECHNICAL ADVISORY TASK FORCE-SYNTHETIC GAS-COAL

Agenda of Meeting

Agenda, Supply-Technical Advisory Task Force-Synthetic Gas-Coal to be held in conference room 2043 of the Federal Power Commission, 441 G Street NW., Washington, D.C.

APRIL 24, 1973—10 A.M.

Presiding: Dr. Paul J. Root, TF FPC Survey Coordinating Representative and Secretary.

1. Call to order and introductory remarks, Dr. Root.
2. Objectives and purposes of meeting—
A. Discussion of the activities and progress of the task force—Mr. Howard M. Siegel, member, Supply-Technical Advisory Task Force-Synthetic Gas-Coal.
B. Discussion of the draft of the task force report, Mr. Siegel.
C. Discussion of the environmental aspects concerning the work of the task force, Mr. Siegel.
D. Status of assigned work and estimated date for completion, Mr. Siegel.
E. Time of the next meeting.
F. Other business.
3. Adjournment, Dr. Root.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the task force, 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 task force.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7713 Filed 4-19-73;8:45 am]

TECHNICAL ADVISORY COMMITTEE ON FINANCE

Agenda of Meeting

Agenda for a meeting of the Technical Advisory Committee on Finance to be held at the Federal Power Commission offices, 441 G Street NW., Washington, D.C., April 30, 1973, 9:30 a.m., e.s.t., room 2043.

1. Meeting called to order by FPC Coordinating Representative.
2. Objectives and purposes of meeting.
A. Approval of minutes of March 14, 1973, meeting.
B. Report on April 16 Coordinating Committee and April 17 Executive Advisory Committee meetings.
C. Further report of task force on future financial requirements.
D. Reports on individual assignments made at the March 14 meeting relating to the task force model.
E. Further reports on other study projects relating to the initial lines of inquiry.
F. Discussion and assignments concerning the preparation of a first draft Committee report.
G. Other business.
H. Date for 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.73-7717 Filed 4-19-73;8:45 am]

TECHNICAL ADVISORY COMMITTEE ON FUELS, TASK FORCE ON FUEL AVAILABILITY

Agenda of Meeting

Agenda for a meeting of the Technical Advisory Committee on Fuels, Task Force on Fuels Availability, to be held at the Federal Power Commission Offices, 1425 K Street NW., Washington, D.C., room 785, April 25, 1973, 9:30 a.m.

1. Meeting called to order by FPC coordinating representative.
2. Objectives and purposes of meeting.
a. Approval of minutes of March 21, 1973, meeting.
b. Discussion of draft reports submitted by task force members on their individual areas of development.
c. Other business.
d. Date for next meeting.

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.73-7715 Filed 4-19-73;8:45 am]

TASK FORCE—ADMINISTRATIVE OF THE TECHNICAL ADVISORY COMMITTEE ON FUELS

Agenda of Meeting

Agenda for a meeting of the task force—administrative of the Technical Advisory Committee on Fuels to be held at the Federal Power Commission offices, 1425 K Street NW., Washington, D.C., April 24, 1973, 9:30 a.m., e.s.t., room 785.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Approval of minutes of March 8, 1973, meeting.
B. Progress report from task forces.
C. Assignment of duties.
D. Other business.
E. 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.73-7716 Filed 4-19-73;8:45 am]

TECHNICAL ADVISORY COMMITTEE ON FUELS

Agenda of Meeting

Agenda for a meeting of the Technical Advisory Committee on Fuels, Task Force on Utility Fuels Requirements to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, D.C., April 27, 1973, 9:30 a.m. e.s.t., room 2043.

1. Meeting called to order by FPC coordinating representative.
2. Objectives and purposes of meeting.
A. Approval of Minutes of April 6, 1973 meeting.
B. Report on April 24 meeting of the task force administrative, TAC on fuels—Mr. DeCarlo.
C. Reports on individual assignments—coal, gas, oil, and nuclear fuel requirements.
D. Discussion and assignments concerning the preparation of a first draft task force report.
E. Other business.
F. Date for 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.73-7718 Filed 4-19-73;8:45 am]

TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT, TASK FORCE ON ENVIRONMENTAL RESEARCH

Agenda of Meeting

Agenda, fourth meeting of the Technical Advisory Committee on Research and Development, Task Force on Environmental Research to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, D.C., 9:00 a.m., April 25, 1973, room 2043.

1. Meeting called to order by FPC coordinating representative.
2. Approval of minutes of previous meeting.
3. Objectives and purposes of meeting.
A. Discussion of proposed outlines.
B. Final assignment of writing tasks.
C. Other Business.
D. Date of next meeting.
4. 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.73-7714 Filed 4-19-73;8:45 am]

[Docket No. E-7920]

NORTHWESTERN PUBLIC SERVICE CO.

Notice of Application

APRIL 12, 1973.

Take notice that on April 6, 1973 Northwestern Public Service Co. (Applicant) filed an application with the Federal Power Commission seeking an order pursuant to section 204 of the Federal Power Act authorizing it to issue, in separate transactions, not to exceed 140,000 shares of common stock, par value $7 per share, and 30,000 shares of cumulative preferred stock, par value $100 per share. Included in such application is a request for exemption from the competitive bidding requirements of §§ 34.1a (b) and (c) of the Commission's regulations under the Federal Power Act for each of the transactions to enable a public offering of the common stock through a selected group of underwriters pursuant to a negotiated underwriting agreement and the sale of the preferred stock to institutional investors by negotiaetd private placement.

Applicant is incorporated under the laws of the State of Delaware and is qualified to do business in the States of North Dakota, South Dakota, and Nebraska, with its principal business office being in Huron, S. Dak. Applicant is engaged in generating, transmitting, distributing, and selling electric energy in the east central portion of South Dakota where it furnishes electric service in 108 communities and in distributing and selling natural gas in 3 Nebraska communities and in 24 communities in South Dakota.

Applicant proposes to sell a number of shares (not to exceed 140,000) of its authorized but heretofore unissued common stock sufficient to provide approximately $3 million of net proceeds to Applicant.

It is proposed that the sales price and underwriting fees and commissions for the common stock will be determined by negotiation with the underwriters.

The preferred stock will be issued as a new series of such stock and will rank on a parity with the presently issued and outstanding preferred stock. It is proposed that the dividend rate, liquidation preferences, redemption prices and sinking fund provisions, if any, of the new series will be determined by negotiation with the purchasers.

Neither of the financings is conditioned upon the consummation of the other one. A $15 million, first mortgage bond financing is planned to follow the common stock and preferred stock financings and will be the subject of a subsequent application or an amendment to this application.

The estimated $6 million of net proceeds from the three financings will be used in part to retire in whole or in part outstanding short term bank loan indebtedness. To the extent not so used, the net proceeds will be applied to payment of costs of Applicant's 1973 construction program.

As of April 1, 1973, Applicant had $6,000,000 of short term bank loans outstanding which was incurred to finance a portion of Applicant's 1972 construction program. Applicant's expenditures for its 1972 construction program totaled approximately $12,911,000 of which approximately $8,835,000 was for the Big Stone Electric Plant project, $70,000 for other electric production facilities, $1,646,000 for electric transmission lines, $593,000 for major electric substations, $233,000 for routine extensions and additions to electric distribution systems, $1,128,000 for miscellaneous extensions and additions to gas distribution systems and $406,000 for miscellaneous general and transportation facilities.

Applicant's 1973 construction expenditures are estimated to be $19,800,000, of which approximately $14,840,000 is for the Big Stone Electric Plant project, $1,028,300 is for other electric production projects, $684,000 is for major transmission lines, $358,700 is for major electric substations, $1,629,300 is for routine extensions and additions to electric systems, $898,400 is for routine extensions and additions to natural gas distribution systems, and $361,300 is for miscellaneous general and transportation facilities.

The Big Stone Electric Plant project involves the construction of a jointly owned 440 MW generating plant and related transmission facilities near Big Stone City, S. Dak. The plant and the related facilities are scheduled for completion in 1975. Applicant shares in the cost of the plant in proportion to its 32.5 percent ownership interest.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7642 Filed 4-19-73;8:45 am]

[Docket No. E-7929]

TOLEDO EDISON CO.

Notice of Extension of Time and Postponement of Prehearing Conference and Hearing

APRIL 13, 1973.

On April 4, 1973, Toledo Edison Co. filed a motion for an extension of time for the filing of cost and revenue data as required by order issued February 28, 1973. On April 6, 1973, Toledo Edison Co. advised that the cities of Bowling Green, Bryan, and Napoleon, Ohio, have no objection to the requested extension. On April 9, 1973, staff counsel filed an answer to the motion and stated that it had no objection to the extension but if granted, it requests an extension of the other procedural dates.

Upon consideration, notice is hereby given that the date for the filing of 1972 cost and revenue data by Toledo Edison is extended to May 16, 1973. The other procedural dates are modified as follows:

Staff service date, August 17, 1973.
Prehearing conference, August 28, 1973 (10 a.m., e.d.t.).
Interveners' service date, September 7, 1973.
Company rebuttal service date, September 21, 1973.
Hearing, October 2, 1973 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7640 Filed 4-19-73;8:45 am]

[Dockets Nos. R-427; RP72-27]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Denying Request for Amendment of Prior Order

APRIL 12, 1973.

Statement of policy implementing the Economic Stabilization Act of 1970 (P.L. 91-379, 84 Stat. 799, as amended by P.L. 92-15, 85 Stat. 38) and Executive Orders Nos. 11615 and 11627.

On August 19, 1971, Transcontinental Gas Pipe Line Corp. filed in docket No. RP72-27 a request for authorization to track increases in the cost of gas purchased by Transco in Southern Louisiana. Transco requested that such authorization be made effective as of September 19, 1971, or such other date as permitted for producer rate increases in the Southern Louisiana area. The purpose of Transco's filing was to enable it to track producer rate increases approved by the Commission in opinion No. 598 and order.[1] Such increases became effective pursuant to opinion No. 598 on September 19, 1971. Significantly, this date fell within the 90-day price freeze imposed by the President from August 15 through November 14, 1971, as part of the economic stabilization program. On December 10, 1971, the Commission in order No. 437A-6 granted Transco its requested tracking authorization, but provided for an effective date as of the end of the price freeze on November 14, 1971.

On July 3, 1972, Transco filed a letter with the Commission pointing out that certain producer rate increases in southern Louisiana have been permitted by this Commission to become effective as of September 19, 1971, subject to the provisions of the Economic Stabilization Act of 1970, as amended, and Executive orders issued thereunder.[2] Transco in its letter requests amendment of order No. 437A-6, so as to permit Transco to track the subject producer rate increases as of September 19, 1971, should such producer increases ultimately be approved. Transco recognizes that approval of the producer rate increases as of September 19, 1971, is a matter for determination under the Economic Stabilization Act of 1970, as amended, and is therefore a matter outside the jurisdiction of this Commission.

[1] Area Rate Proceeding, et al. (Southern Louisiana area), dockets Nos. AR61-2, et al., and AR69-1, issued July 16, 1971.

[2] Shell Oil Co., letter order issued April 3, 1972; Union Oil Company of California and Texaco, Inc., letter orders issued June 1, 1972; Mobil Oil Corp., letter order issued June 14, 1972; Amerada Hess Corp., letter order issued June 23, 1972.

The Commission's statement of policy of August 18, 1971, at docket No. R-427 prevents those rate increases, proscribed by Executive Order 11615, from taking effect. (See sec. 2(c) of statement, as contained in ordering paragraph (A).) Executive Order 11615 however does not confer authority upon this Commission to decide the question as to whether a given rate increase is proscribed under that order. Such authority rests with the Cost of Living Council created by Executive Order 11615 to insure that the provisions of that order are carried out.

The Commission finds

(1) This is a matter within the province of the Cost of Living Council and it should determine whether or not the rate increases in question are proscribed by Executive Order No. 11615.

(2) The Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) has not relieved Transco of any of its obligations under Executive Order No. 11615.

The Commission orders

Transco's request for amendment of the Commission's Order No. 437A-6, as contained in its letter filed July 3, 1972, is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7641 Filed 4-19-73;8:45 am]

[Docket No. CP73-253]

WESTERN GAS INTERSTATE CO.

Notice of Application

APRIL 10, 1973.

Take notice that on March 30, 1973, Western Gas Interstate Co. (Applicant), Fidelity Union Tower, Dallas, Tex. 75201, filed in docket No. CP73-253 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction for 1 year from the date of authorization and operation of natural gas facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its

pipeline system new supplies of natural gas in various areas generally coextensive with said system.

The total cost of the facilities proposed would not exceed $100,000, and the cost of any single project would not exceed $25,000. The facilities would be financed with funds on hand and short term borrowings from Applicant's parent, Southern Union Gas Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 1, 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 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7631 Filed 4-19-73;8:45 am]

[Docket No. ID-1598 et al.]

WILLIS S. WHITE, JR. ET AL.

Notice of Applications

APRIL 10, 1973

Take notice that the following applications were filed on the stated dates, pursuant to § 305(b) of the Federal Power Act, for authority to hold the position of officer or director of more than one public utility, or the position of officer or director of a public utility and officer or director of a firm authorized to market utility securities, or the position of officer or director of a public utility and officer or director of a company supplying electric equipment to such public utility.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 30, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

ID-1598	Willis S. White, Jr.	Feb. 27, 1973	Appalachian Power Co., Kanawha Valley Power Co., Kentucky Power Co., Kingsport Power Co., Michigan Power Co., Wheeling Electric Co., Ohio Power Co., Indiana & Michigan Electric Co.
ID-1685	Ralph A. Brown	Jan. 15, 1973	Maine Public Service Co., Maine Yankee Atomic Power Co., Maine Electric Power Co., Inc.
ID-1691	Paul J. Sullivan	Feb. 20, 1973	Western Massachusetts Electric Co., Holyoke Water Power Co., Holyoke Power & Electric Co.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-7629 Filed 4-19-73;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

[ICP Docket No. 20116]

MINING INC.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for renewal permit for noncompliance with the interim mandatory dust standard (2.0 mg/m³) has been received as follows:

ICP Docket No. 20116, Mining Inc., mine No. 2T 242, USBM ID No. 44 01850 0, Jewell Valley, Va., section ID No. 001 (mains).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before May 7, 1973. Requests for public hearing must be filed in accordance with 30 CFR part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, room 800, 1730 K Street NW., Washington D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

APRIL 17, 1973.

[FR Doc.73-7592 Filed 4-19-73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-35]

ASTRO MET ASSOCIATES

Notice of Intent To Grant Exclusive Patent License

Notice is hereby given of intent to grant to Astro Met Associates, Cincinnati, Ohio, a limited exclusive license to practice the inventions described in U.S. patent No. 3,419,363 for "Self-lubricating Fluoride Metal Composite Materials" issued December 31, 1968, and U.S. patent No. 3,508,955 for "Method of Making Self-Lubricating Fluoride Metal Composite Materials" issued April 28, 1970, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The proposed license will be exclusive, revocable, and contain terms and conditions to be negotiated in accordance with the "NASA Patent Licensing Regulations," 14 CFR 1245.2, as revised April 1, 1972. NASA will negotiate and grant the exclusive license unless, on or before May 21, 1973, the Chairman, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b), in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the notice and then recommend to the Administrator whether to grant the exclusive license.

S. NEIL HOSENBALL,
Acting General Counsel.

[FR Doc.73-7595 Filed 4-19-73;8:45 am]

[Notice 73-33]

NASA HISTORICAL ADVISORY COMMITTEE

Notice of Meeting

The NASA Historical Advisory Committee will meet on May 7 and 8, 1973, at the headquarters of the National Aeronautics and Space Administration, Washington, D.C. 20546. The meeting will be held in room 7001C of Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the open portion of the meeting beginning at 9 a.m. May 7, 1973, on the agenda below on a first-come-first-served basis up to the seating capacity of the room, which is about 20 persons.

The NASA Historical Advisory Committee serves in an advisory capacity only. In this capacity it is concerned with all activities which the agency

undertakes in the preservation, compilation, writing, and publication of the historical record of aeronautics and space activities. The current chairman is Prof. Louis Morton. There are five members. For further information, please contact Mr. James Nolan, area code 202–755–3960.

The following sets forth the approved agenda topics for the meeting.

MAY 7, 1973, 9 A.M. TO 4:30 P.M.

Committee activities and plans.

NASA plans and actions with respect to the "History of NASA" and committee recommendations.

Review of NASA assessment of the historical program needs and plans, including contracts and grants, the role of universities, and in-house authorship.

Review of status of certain items discussed at the December 1972 meeting, including the manuscript review process, the rights of authors to their work, and several proposed activities.

MAY 8, 1973 (CLOSED TO THE PUBLIC)

Executive session.—The Committee will consider and make recommendations on candidates for undertaking several NASA historical activities. These discussions will involve expression of the committee members' views on the personal and professional qualifications of various individuals who are not members of the Committee and public discussion would constitute unwarranted invasion of their personal privacy.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

APRIL 13, 1973.

[FR Doc.73–7593 Filed 4–19–73;8:45 am]

[Notice 73–34]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL AD HOC PANEL ON AEROSPACE VEHICLE DYNAMICS AND CONTROL

Notice of Meeting

The NASA Research and Technology Advisory Council Ad Hoc Panel on Aerospace Vehicle Dynamics and Control will meet on May 1 and May 2, 1973, at Stanford University, Stanford, Calif. The meeting will be held in room 301 of the Aero & Astro Durand Building, Stanford Campus.

The NASA Research and Technology Advisory Council Ad Hoc Panel on Aerospace Vehicle Dynamics and Control serves in an advisory capacity only. In this capacity, the panel is concerned with the interdisciplinary problem of the dynamics and control of spacecraft and aircraft, including present program effort, balance, technological voids, and needs for new technology. The panel represents the interests of four RTAC committees. It is cochaired by Messrs. M. J. Turner and W. L. Holladay. There are eight members. The following list sets forth the approved agenda and schedule for the meeting of the ad hoc panel. For further information, please contact Mr. George C. Deutsch, area code 202–755–3264.

MAY 1, 1973

Time	*Topic*
9 a.m.–4 p.m.	Panel review and editing of initial report draft and preparation of final report. Purpose: The session will be devoted to reviewing, editing, and rewriting the initial draft of a final report consisting of writeups prepared by panel members. The final report draft will be distributed to RTAC Advisory Committees for review and recommendation of action to NASA.
4 p.m.	Adjourn.

MAY 2, 1973

9 a.m.–3 p.m.	Conclusion of panel review.
3 p.m.	Adjourn.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

APRIL 13, 1973.

[FR Doc.73–7594 Filed 4–19–73;8:45 am]

OFFICE OF EMERGENCY PREPAREDNESS

MICHIGAN

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744); notice is hereby given that on April 12, 1973, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Michigan from severe storms and flooding, beginning about March 16, 1973, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91–606. I therefore declare that such a major disaster exists in the State of Michigan. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91–606), I hereby appoint Mr. Robert E. Connor, Regional Director, OEP Region 5, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that act for this disaster.

I do hereby determine the following areas in the State of Michigan to have been adversely affected by this declared major disaster.

The counties of:

Bay	Saginaw
Berrien	Sanilac
Huron	St. Clair
Iosco	Tuscola
Macomb	Wayne
Monroe	

Dated April 13, 1973.

DARRELL M. TRENT,
Acting Director, Office of Emergency Preparedness.

[FR Doc.73–7601 Filed 4–19–73;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

FREQUENCY MANAGEMENT ADVISORY COUNCIL

Notice of Public Meeting

Notice is hereby given that the Frequency Management Advisory Council will meet at 10 a.m., on Thursday, May 3, 1973, in room 712, 1800 G Street NW., Washington, D.C.

The principal agenda items will be (a) a continued discussion of a proposed study of telecommunications growth over the past 20–30 years; (b) the development of an FMAC study program in support of its advisory role to this Office; and, (c) a briefing on optical spectrum technology.

The meeting will be open to the public; any member of the public may file a written statement with the Council, before or after the meeting.

The names of the members of the Council, a copy of the agenda, a summary of the meeting and other information pertaining to the meeting may be obtained from Mr. L. R. Raish, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone 202–395–5623).

Dated April 16, 1973.

BRYAN M. EAGLE,
Advisory Committee Management Officer.

[FR Doc.73–7668 Filed 4–19–73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 224]

Assignment of Hearings

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 113678 sub 442, Curtis, Inc., MC 113843 sub 184, Refrigerated Food Express, Inc., MC 113843 sub 185, Refrigerated Food Express, Inc., MC 114019 sub 244, Midwest Emery Freight System, Inc., MC 115841 sub 412, Colonial Refrigerated Transportation, Inc., MC 117883 sub 158, Subler Transfer, Inc., now assigned May 14, 1973, on the fifth floor, 150 Causeway St., Boston, Mass.

MC-124174 sub 90, Momsen Trucking Co., now asigned May 14, 1973, will be held in room 705, 610 South Canal Street, Chicago, Ill.

AB-5 sub 124, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees of the property of Penn Central Transportation Co., debtor, abandonment Poland secondary track between Herkimer and Poland, Herkimer County, N.Y., now assigned May 14, 1973, will be held in County Legislators Chambers, Herkimer County Office Building, Mary Street, Herkimer, N.Y.

MC 136006 sub 1, Wallkill Air Freight Corp., now assigned May 16, 1973, will be held in room 434, U.S. Post Office and Courthouse, Broadway, Albany, N.Y.

MC-C-7936, Price Hill Coach Line, Inc.,-V-Indiana Trails, Inc., MC-136895 sub 2, White Lines, Inc., now assigned May 9, 1973, will be held in room 203, U.S. District Court, 118 West Third Street, Dayton, Ohio.

AB-5 sub 102, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees of the property of Penn Central Transportation Co., debtor, abandonment between Centerville and Lytle, Warren and Montgomery Counties, Ohio, now assigned May 7, 1973, will be held in room 203, U.S. District Court, 118 West Third Street, Dayton, Ohio.

MC-126034 sub 1, 3, and 4, Bucks County Construction Co., now assigned May 29, 1973, will be held in conference room B, 11th Floor, Federal Building, 1421 Cherry Street, Philadelphia, Pa.

AB 5 sub 47, Penndel Co. and George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees of the property of Penn Central Transportation Co., debtor, abandonment between New Castle and Houston Junction, in Mercer and Lawrence Counties, Pa., now assigned May 22, 1973, at New Castle, Pa., will be held in the Council Chambers, New Castle Municipal Building, Jefferson and Grant Streets.

MC 30844 sub 441, Kroblin Refrigerated Express, Inc., now being assigned June 6, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 76297, Richard Dean Wendelken, doing business as Rubber City Express, now being assigned June 13, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

W 471 sub 3, Merry Shipping Co., Inc., common carrier application, now being assigned June 25, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 51146 sub 295, Schneider Transport, Inc., now being assigned June 26, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11748, Coastal Industries, Inc.,—control—P. B. Mutrie Motor Transportation, Inc., now being assigned June 26, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-109098 sub 2, Fogg's Daily Service, now assigned May 31, 1973, will be held in conference room A, 11th Floor, Federal Building, 1421 Cherry Street, Philadelphia, Pa.

MC-135875 sub 1, Clarence R. Berger, now assigned May 22, 1973, will be held in 99A conference room 1, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, Wis.

MC 116519 sub 17, Frederick Transport, Ltd., now assigned June 4, 1973, at Chicago, Ill., is postponed indefinitely.

I. & S. M 26691, bus fares, New York-Keansburg-Long Branch Bus Co., now assigned May 21, 1973, will be held in room F-2220, 26 Federal Plaza, New York, N.Y.

MC-FC-73661, Bianchi Transportation Co., Inc., Old Bridge, N.J., transferee, and Bianchi Truck Line, Inc., Klemmer Kaltelssen, trustee, Old Bridge, N.J., transferor, and MC-114132, Bianchi Truck Line, Inc., now assigned April 30, 1973, is postponed to May 24, 1973 (1 day), in room F-2220, 26 Federal Plaza, New York, N.Y.

MC 115869, Hendrie & Co., Ltd., now being assigned continued hearing May 30, 1973 (3 days), at Buffalo, N.Y., in a hearing room to be later designated.

MC 130173, Caravan Tours, Inc., now being assigned continued hearing June 4, 1973 (3 days), at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-7660 Filed 4-19-73;8:45 am]

[Notice No. 257]

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 May 10, 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-74273. By order entered April 6, 1973, the Motor Carrier Board approved the transfer to Herman Schomer, doing business as Schomer Trucking, Iron Mountain, Mich., of the operating rights set forth in permits Nos. MC-114046 and MC-114046 (sub-No. 7), issued November 5, 1968, and February 18, 1970, respectively, to William D. Frost and Herman Schomer, doing business as M & M Trucking Co., Iron Mountain, Mich., authorizing the transportation of beer, malt beverages, and empty malt beverage containers, from or to specific points in Michigan, Missouri, Minnesota, Illinois, and Ohio. Dual operations authorized. Robert W. Hansley, 120 North Sixth Street, Escanaba, Mich. 49829, attorney for applicants.

No. MC-FC-74336. By order entered April 6, 1973, the Motor Carrier Board approved the transfer to Dubose Trucking Co., Inc., Denham Springs, La., of the operating rights set forth in certificate No. MC-135065 (sub-No. 3), issued June 2, 1972, to Earl G. Dubose, doing business as Dubose Trucking Co., Denham Springs, La., authorizing the transportation of sugar, in containers, from the plantsites of Colonial Sugars Co., at Gramercy, La., and of Godchaux-Henderson Sugar Co., at Reserve, La., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Mississippi, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to the transportation of traffic originating at the named origin points and destined to the named destination points. Earl G. Dubose, Route 1, Box 257, Denham Springs, La. 70726, representative for applicants.

No. MC-FC-74323. By order entered April 6, 1973, the Motor Carrier Board approved the transfer to Cronin's Express, Inc., Milton, Mass., of the operating rights set forth in certificate No. MC-120380 (sub-No. 1) and certificate of registration No. MC-120380 (sub-No. 2), both issued April 15, 1971, to Frederick J. Browne, doing business as Cronin's Express, Revere, Mass., authorizing the transportation of general commodities, between points in Massachusetts. Mary E. Kelley, 11 Riverside Avenue, Medford, Mass. 02155, attorney for applicants.

No. MC-FC-74348. By order entered April 6, 1973, the Motor Carrier Board approved the transfer to Hollis Truck Line Co., a corporation, Kermit, Tex., of the operating rights set forth in certificate of registration No. MC-97316 (sub-No. 1), issued May 21, 1964, to G. A. Hollis, doing business as Hollis Truck Line, Kermit, Tex., evidencing a right to engage in operations in interstate or foreign commerce, in the transportation of oilfield equipment to and from all points in Texas located west of U.S. Highway No. 81 from Ringgold to Laredo via San Antonio, but prohibited from operating into or through the Counties of Tarrant, Bexar, and Dallas. Robert Scogin, Box 920, Kermit, Tex. 79745, attorney for applicants.

No. MC-FC-74366. By order of April 10, 1973, the Motor Carrier Board approved the transfer to Chesapeake Van Lines, Inc., Baltimore, Md., of the operating rights in certificate No. MC-1813 issued April 16, 1965 to William T. Geipe Moving & Storage Co., Inc., Baltimore, Md., authorizing the transportation of household goods between Baltimore, Md., and points within 6 miles of Baltimore, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia. Thomas R. Kingsley, 1819 H Street NW., Washington, D.C., 20006, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-7661 Filed 4-19-73;8:45 am]

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WASHINGTON, D.C.

Volume 38 ■ Number 76

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

■

Charter for Departmental Grants Appeals Board

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 16—DEPARTMENT GRANT APPEALS PROCESS

Charter for Departmental Grants Appeals Board

Notice of proposed rulemaking was published in the FEDERAL REGISTER on November 18, 1972, at 37 FR 24675, setting forth a charter for a Departmental Grant Appeals Board from which grant appeals panels would be selected for the purpose of reviewing and providing hearings upon postaward disputes which may arise in the administration of certain grant programs by constituent agencies of the Department of Health, Education, and Welfare. Comments were received with respect to the scope of the regulation (§ 16.2), the failure of § 16.3 to define "grantee," composition of the Grant Appeals Board (§ 16.4(a)), composition of the grant appeals panels (§ 16.4(b)), determinations subject to the jurisdiction of the Board (§ 16.5(a)), timeliness of submission of disputes to the Board (§§ 16.5(b), 16.6(a)), action by the Board on applications for review (§ 16.6(b)), procedural rules of the Board (§ 16.8(b)(3)), subsequent proceedings based upon the Board's initial decision (§ 16.10), and the uniqueness of the grant process.

Following review of the comments, the following changes were made:

A. SUMMARY OF CHANGES BASED ON COMMENTS RECEIVED

1. A definition of "Grantee" has been added to § 16.3 which is intended to make clear that in the case of grant awards which designate an institution as the grantee and which also designate a principal investigator, the institution rather than the principal investigator shall be regarded as the grantee for the purposes of the procedures under this part.

2. Sections 16.5(b) and 16.6(a) have been amended to clarify the time for, and manner of, submission for review of a grantee's request for permission to incur an expenditure during the term of a grant when the failure of the constituent agency to approve the grantee's request within a reasonable time is deemed notification of a determination upon the grantee's request.

B. OTHER CHANGES

1. Section 16.3 has been amended to include the Office of the Assistant Secretary for Education, with respect to grants under section 404 of the General Education Provisions Act, and the National Institute of Education as constituent agencies and the Assistant Secretary for Education and the Director of the National Institute of Education as heads of constituent agencies. These agencies and positions were established by the Education Amendments of 1972.

2. Section 16.4(a) has been amended so as to permit greater flexibility in the composition of the Board. As amended, the section does not prescribe a certain number of Board members, and it makes it clear that service on the Board may be on a regular or an intermittent basis.

3. Section 16.5(a)(1) has been amended to clarify the nature of termination for cause.

4. Section 16.5(a)(3) has been amended to provide that a grantee's request for permission to incur an expenditure must be in writing to provide a basis for jurisdiction in the Board.

5. Section 16.6(b)(2) has been amended to make it clear that the Board Chairman will, before referring an application for review to a panel, determine that requirements related not only to determinations within the jurisdiction of the Board (§ 16.5), but also to timeliness of submission (§ 16.6(a)), have been satisfied.

6. Section 16.8(b)(2)(i) has been amended for the purpose of clarifying that in cases where a formal evidentiary hearing is held under § 16.8(b)(2), a record of the proceedings is not required unless requested by either party to the proceeding.

7. Section 16.10(c) has been amended to clarify the manner in which the head of the constituent agency will signify his determination to review an initial decision of the Board.

8. Other minor changes have been made, either to correct typographical errors or to effect solely technical matters, and appropriate additions and deletions of programs affected have been made in the appendices.

C. SUMMARY OF MAJOR SUBSTANTIVE COMMENTS

1. Comments on the notice of proposed rulemaking were universally favorable to the establishment of the Departmental Grant Appeals Board. Virtually every comment expressed support for the proposed Board as a positive step towards affording grantees a greater measure of due process in the resolution of postaward disputes between grantees and constituent agencies of the Department.

2. One comment emphasized the need for caution in order to preserve the uniqueness of the grant process, as distinguished from the procurement process. This is a comment well-taken. While this part is designed to introduce to the grants area the opportunity for submission of disputes to an impartial forum—an opportunity which has been available with respect to procurement actions of the Department—it does not purport to alter the nature of grants or the grant award process; nor does it deal with those characteristics of grants-in-aid which distinguish them from procurement actions.

3. A comment was received urging that the scope section (§ 16.2) be amended so as to preclude the Grant Appeals Board from considering disputes arising under the various public assistance State plan sections of the Social Security Act, which disputes are now governed by other HEW regulations. However, § 16.2, as presently drafted, would preclude the Board from considering such disputes. Programs (such as State plan formula programs) other than those authorizing the making of direct, discretionary project grants are not subject to this part unless they are specifically so designated by the head of the constituent agency with the approval of the Secretary (§ 16.2(a)). Programs to which this part is applicable are listed in the appendices, and the programs described by the comment are not so listed. Moreover, § 16.2(b) provides that this part is not applicable if the grantee is entitled to a hearing pursuant to 5 U.S.C. section 554 or if the agency has established procedures approved by the Secretary as an alternative to the procedures under this part.

4. One comment received proposed that "grantee" be defined so as to avoid confusion on the question of whether or not principal investigators employed by institutional grantees may submit applications for review to the Board without authorization by the institution. An appropriate amendment has been made in § 16.3.

5. One comment suggested that § 16.4(a) be amended to require representation on the Board of the grantee community. However, the Grant Appeals Board is a quasi-judicial body. As such, it should not, we think, be organized or staffed on a representative basis. For proper discharge of the adjudicatory function, each Board member should neither regard himself, nor be regarded by others, as representing a particular constituency. Individuals from the grantee community are not excluded from membership on the Board, but, for the above reasons, we think it inappropriate to require their membership.

6. With respect to the composition of the grant appeals panels (§ 16.4(b)), one comment proposed an amendment to proscribe participation on a panel of members from constituent agencies involved in a case before the panel, while another comment suggested an amendment to provide that membership on the panels be related to the specific area under appeal, or at least be multidisciplinary. However, it is felt that issues regarding panel membership should be treated in procedures to be adopted by the Board pursuant to § 16.8(b)(3) rather than in this overall regulation for the Board.

7. One comment proposed that § 16.5(a)(3) be narrowed as a basis for jurisdiction, so that the Board would review disapproval of a grantee's request for permission to incur an expenditure during the term of a grant only when such expenditure "is ordinarily permissible." As we understand it, the purpose of this amendment would be to limit the Board's caseload and thereby expedite its functions. However, it would seem that the suggested basis for excluding disputes—whether the expenditures are ordinarily permissible—goes to the ultimate issue in this class of cases. It is not clear how the Board Chairman is to determine which expenditures are ordinarily permissible and which are not. If appeals are made by grantees with respect to expenditures which are clearly not permissible, we think the existing

procedures permit expeditious disposition of such appeals by the Board on an informal basis.

8. Several comments emphasized the importance of the last sentence of § 16.5(b), which provides that the failure of a constituent agency to approve a grantee's request to incur an expenditure during the term of a grant within a reasonable time shall be deemed by the Board a notification for purposes of invoking the jurisdiction of the Board. However, most of these comments expressed concern over the imprecision of the concept of "reasonable time." One comment pointed out that this would give grantees inadequate guidance as to when it would be appropriate to appeal. Another questioned whether grantees in this situation would be prejudiced under § 16.6(a) for not making a timely filing of an application for review. An attempt has been made to meet these objections through amendments to §§ 16.5(b) and 16.6(a).

9. A comment was received proposing that the Grant Appeals Board be required to act within specified time limits on applications for review, or alternatively, that agency action on determinations should be stayed by the timely filing of the application. Section 16.6(b), which requires the Board Chairman promptly to refer cases to a panel, was viewed as too vague by the comment. Also, the comment regarded § 16.7, which proscribes agency action pending disposition of the application, as recognizing exceptions which would prove too broad, related to the suspension of assistance or the withholding or deferring of payments under the grant. These comments are well taken. They raise considerations which we hope will help to shape the Board's activity. However, we deem it ill-advised to regulate further on these matters in the instant context for the following reasons:

(a) In the absence of any feel for the prospective size and complexity of the Board's caseload, it would be inappropriate to regulate specific time limits on the Board for disposition of cases. Indeed, it is difficult to visualize how any sensible, across-the-board time limits of this sort might be devised. The Board must obviously take whatever time is needed to dispose of cases on a rational and fair basis, and this will inevitably vary from case to case.

(b) Contrariwise, suspension of grant assistance and withholding of payments, to the extent that they are available to an agency, are remedies which by their nature cannot be stayed by the institution of an appeal. If they were stayed, they would render termination a hollow remedy. In the course of resorting to these remedies, agencies independently would, as a matter of good administrative practice, afford grantees some sort of proceedings, but these proceedings should be covered in administrative or program regulations of the agencies concerned.

10. One comment proposed that provision be made for appeals to the Secretary on decisions which are adverse to the grantee. However, it is felt that such an amendment would not add any significant protection for grantees and would be administratively undesirable. The Grant Appeals Board established by this part is the Secretary's Board. All Board members are appointed by the Secretary for such terms as he may designate (§ 16.4(a)). The Board renders an initial decision which is sent to all parties involved in the dispute. (Section 16.10 (a) and (b)). While such decision may be modified or reserved by the head of the constituent agency, he must accompany such action by a written statement of the grounds for such modification or reversal which shall be filed with the Secretary and the Board (§ 16.10(d)). Section 16.10(d) provides: "In order to afford the Secretary an opportunity to study such decision of the agency head, it shall be served upon the parties no earlier than 30 days after such filing. Such decision shall not become final until it is served upon the grantee involved or his attorney." These provisions are designed to insure that the decision of the Board will be overturned by the head of the constituent agency, who is prohibited from delegating his review function by § 16.10 (e), only for substantial reasons articulated on the record. They follow the decision and review pattern for administrative adjudication set forth in the Administrative Procedure Act. In the face of these safeguards, a provision for review by the Secretary would create an additional administrative layer for review, without any corresponding benefit to grantees.

After consideration of the above comments, title 45 of the Code of Federal Regulations is amended by adding a new part 16 as set forth below.

Effective date.—This regulation shall be effective May 21, 1973.

Dated April 16, 1973.

CASPER W. WEINBERGER,
Secretary, Department of Health, Education, and Welfare.

Sec.
16.1 Purpose.
16.2 Scope.
16.3 Definitions.
16.4 Grant appeals board; grant appeals panel.
16.5 Determinations subject to the jurisdiction of the board.
16.6 Submission.
16.7 Effect of submission.
16.8 Substantive and procedural rules.
16.9 Hearing before panel or a hearing officer.
16.10 Initial decision; final decision.
16.11 Separation of functions.
Appendix A—Education Programs.
Appendix B—Social and Rehabilitation Service and Child Development Programs.
Appendix C—Public Health Programs.
Appendix D—Food and Drug Programs.

AUTHORITY: Secs. 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 F.R. 2053, 67 Stat. 631 and the individual authorities cited in the Appendices.

§ 16.1 Purpose.

This part establishes a Departmental Grant Appeals Board, for the purpose of reviewing and providing hearings upon post-award disputes which may arise in the administration of or carrying out of grants under grant programs (as described in § 16.2) and which are submitted to the Board as provided in § 16.6.

(Authority cited in the Appendices.)

§ 16.2 Scope.

(a) This part applies to certain determinations (as set forth in § 16.5), made after the effective date of this part, with respect to grants awarded by a constituent agency of the Department of Health, Education, and Welfare pursuant to: (1) Any program which authorizes the making of direct, discretionary project grants or (2) any other program (including any State plan, formula program) which the head of the constituent agency, with the approval of the Secretary, may designate in whole or in part.

(b) Notwithstanding paragraph (a) of this section, this part shall not be applicable to a determination: (1) If the grantee is entitled to an opportunity for hearing with respect to such determination pursuant to 5 U.S.C. sec. 554 or (2) if, in order to meet special needs applicable to a particular program, the constituent agency has established an appropriate alternative procedure (which is available to the grantee) for the review or resolution of such determination and the Secretary has approved such procedure as an alternative to the procedures under this part.

(c) Programs to which this part is applicable shall be listed in the Appendices to this part. With the approval of the Secretary, a program not so listed may be made subject to this part through an appropriate designation by the head of the constituent agency concerned. The Appendices referred to in the preceding sentence shall be promptly updated to reflect such designations.

(d) This part does not apply to any action taken pursuant to title VI of the Civil Rights Act of 1964, Part 80 of this title, and Executive Order No. 11246.

(Authority cited in the Appendices.)

§ 16.3 Definitions.

For purposes of this part:

(a) "Board" means the Departmental Grant Appeals Board, as described in paragraph (a) of § 16.4.

(b) "Board Chairman" means the Board member designated by the Secretary to serve as Chairman of the Board.

(c) "Panel" means a Grant Appeals Panel, as described in paragraph (b) of § 16.4.

(d) "Panel Chairman" means a member of a Grant Appeals Panel who has been designated as Chairman of such Panel by the Board Chairman.

(e) "Constituent agency" means the Office of the Assistant Secretary for Education (with respect to grants pursuant to section 404 of the General Education Provisions Act), the Office of Education, the National Institute of Education, the

Health Services and Mental Health Administration, the Social and Rehabilitation Service, the Office of Child Development, the National Institutes of Health, the Food and Drug Administration, the Office of Grant Administration Policy, or any other organizational component of the Department which the Secretary may designate.

(f) "Head of the constituent agency" means, as appropriate, the Assistant Secretary for Education (with respect to grants pursuant to section 404 of the General Education Provisions Act), the Commissioner of Education, the Director of the National Institute of Education, the Administrator, Health Services and Mental Health Administration, the Administrator of the Social and Rehabilitation Service, the Director of the Office of Child Development, the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, the Deputy Assistant Secretary for Grant Administration Policy, or the head of any other organizational component designated by the Secretary pursuant to paragraph (e) of this section.

(g) The terms "Department" and "Departmental" refer to the U.S. Department of Health, Education, and Welfare.

(h) "Secretary" means the U.S. Secretary of Health, Education, and Welfare.

(i) "Termination" of a grant means the termination of the grantee's authority to charge allowable costs to a grant prior to the grant expiration date in the grant award document.

(j) "Grantee" means the agency, institution, organization, or individual named as grantee in the grant award document.

(Authority cited in the Appendices.)

§ 16.4 Grant Appeals Board; Grant Appeals Panel.

(a) There is established, within the Office of the Secretary, a Departmental Grant Appeals Board the members of which shall be appointed by the Secretary, for such terms as may be designated by him, to perform the functions described in this part. Subject to the limitations set forth in § 16.11, persons who are officers or employees of the Department or of any of its constituent agencies as well as other Federal officers or employees may serve on the Board. Persons who are not otherwise full-time employees of the Federal Government may, in accordance with appropriate arrangements, also be asked to serve on the Board. Service on the Board may be on a regular or an intermittent basis.

(b) The Secretary shall designate one of the members of the Board to be Chairman. The Board Chairman shall designate Grant Appeals Panels for the consideration of one or more cases submitted to the Board. Each such Panel shall consist of not less than three members of the Board. The Board Chairman may, at his discretion, constitute the entire Board to sit for any case or class of cases. The Board Chairman shall designate himself or any other member of a Panel to serve as Chairman.

(Authority cited in the Appendices.)

§ 16.5 Determinations subject to the jurisdiction of the Board.

(a) Subject to § 16.2 and paragraph (b) of this section, the Board shall have jurisdiction over the following determinations of a cognizant officer or employee of a constituent agency adverse to a grantee:

(1) Termination, in whole or in part, of a grant for failure of the grantee to carry out its approved project proposal in accordance with the applicable law and the terms of such assistance or for failure of the grantee otherwise to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) A determination that an expenditure not allowable under the grant has been charged to the grant or that the grantee has otherwise failed to discharge its obligation to account for grant funds.

(3) The disapproval of a grantee's written request for permission to incur an expenditure during the term of a grant.

(4) A determination that a grant is void.

(5) Establishment of indirect cost or research patient hospital care rates (except where the grantee has appealed to the Armed Services Board of Contract Appeals with respect to such determination under a contract with the Department).

(b) A determination described in paragraph (a) of this section may not be reviewed by the Board unless: (1) An officer or employee of the constituent agency has notified the grantee in writing of such determination and (2) such informal procedures as the agency has established by regulation for the resolution (prior to submission to the Board) of issues related to such determination have been exhausted. A notification described in subparagraph (1) of this paragraph shall set forth the reasons for the determination in sufficient detail to enable the grantee to respond and shall inform the grantee of his opportunity for review under this part. In the case of a determination under paragraph (a) (3) of this section, the failure of a constituent agency to approve a grantee's request within a reasonable time, which shall be no longer than 30 days after the postmark date of the grantee's request unless the constituent agency demonstrates to the Board Chairman good cause for not acting upon the request within such time period and has so notified the grantee within 30 days after the postmark date of the grantee's request, shall be deemed by the Board a notification for purposes of this paragraph.

(Authority cited in the Appendices.)

§ 16.6 Submission.

(a) *Application for review.* (1) A grantee with respect to whom a determination described in § 16.5 has been made and who desires review may file with the Board an application for review of such determination. The grantee's application for review must be postmarked no later than 30 days after the postmark date of notification provided pursuant to § 16.5(b)(1) except when (i) the head of the constituent agency, by regulation, establishes a different period of time for any class of cases; (ii) the Board Chairman grants an extension of time for good cause shown; or (iii) the determination is one described in the last sentence of § 16.5 (b), in which case subject to subdivisions (i) and (ii) of this subparagraph, the grantee's application for review must be postmarked no later than 90 days after the postmark date of the grantee's request for permission to incur an expenditure.

(2) Although the application for review need not follow any prescribed form, it shall clearly identify the question or questions in dispute and contain a full statement of the grantee's position with respect to such question or questions, and the pertinent facts and reasons in support of such position. Except in the case of a determination described in the last sentence of § 16.5(b), the grantee shall attach to his submission a copy of the agency notification described in § 16.5(b)(1).

(b) *Action by Board on application for review.* (1) The Board Chairman shall promptly send a copy of the grantee's application to the appropriate constituent agency.

(2) If the Board Chairman determines, after receipt of an application for review, that the requirements of § 16.5 and paragraph 6(a) of this section have been satisfied, he shall promptly refer the application to a Grant Appeals Panel designated pursuant to § 16.4(b) for further proceedings under this part. If he determines that such requirements have not been met, the Board Chairman shall advise the grantee of the reasons for the rejection of the application.

(Authority cited in the Appendices.)

§ 16.7 Effect of submission.

When an application has been filed with the Board with respect to a determination, no action may be taken by the constituent agency pursuant to such determination until such application has been disposed of, except that the filing of the application shall not affect the authority which the constituent agency may have to suspend assistance under a grant during proceedings under this part or otherwise to withhold or defer payments under the grant.

(Authority cited in the Appendices.)

§ 16.8 Substantive and procedural rules.

(a) *Substantive rules.* The Panel shall be bound by all applicable laws and regulations.

(b) *Procedural rules.* (1) With respect to cases involving, in the opinion of the Panel, no dispute as to a material fact

the resolution of which would be materially assisted by oral testimony, the Panel shall take appropriate steps to afford to each party to the proceeding an opportunity for presenting his case at the option of the Panel (i) in whole or in part in writing or (ii) in an informal conference before the Panel which shall afford each party: (*a*) Sufficient notice of the issues to be considered (where such notice has not previously been afforded); and (*b*) an opportunity to be represented by counsel.

(2) With respect to cases involving a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall afford each party an opportunity for a hearing, which shall include, in addition to provisions required by subparagraph (1)(ii) of this paragraph provisions designed to assure to each party the following:

(i) An opportunity for a record of the proceedings;

(ii) An opportunity to present witnesses on his behalf; and

(iii) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(3) After consultation with the constituent agencies, the Board shall, with the approval of the Secretary, promulgate and publish rules of procedure, including rules respecting opportunity for intervention by interested third parties, relating to proceedings under this part.

(Authority cited in the Appendices.)

§ 16.9 Hearing before Panel or a Hearing Officer.

A hearing pursuant to § 16.8(b)(2) shall be conducted, as determined by the Panel Chairman, either before the Panel or a hearing officer. The hearing officer may be (a) one of the members of the Panel or (b) a nonmember who is appointed as a hearing examiner under 5 U.S.C. 3105.

(Authority cited in the Appendices.)

§ 16.10 Initial decision; final decision.

(a) The Panel shall prepare an initial written decision, which shall include findings of fact and conclusions based thereon. When a hearing is conducted before a hearing officer alone, the hearing officer shall separately find and state the facts and conclusions which shall be incorporated in the initial decision prepared by the Panel.

(b) Copies of the initial decision shall be mailed promptly by the Panel to each party, or his counsel and to the Secretary with a notice affording such party an opportunity to submit written comments thereon to the head of the appropriate constituent agency within a specified reasonable time.

(c) The initial decision of the Panel shall be transmitted to the head of the constituent agency and shall become the final decision of the constituent agency, unless, within 25 days after the expiration of the time for receipt of written comments, the head of the appropriate constituent agency advises the Board Chairman in writing of his determination to review such decision.

(d) In any case in which the head of the constituent agency modifies or reverses the initial decision of the Panel, he shall accompany such action by written statement of the grounds for such modification or reversal, which shall promptly be filed with the Secretary and the Board. In order to afford the Secretary an opportunity to study such decision of the agency head, it shall be served upon the parties no earlier than 30 days after such filing. Such decision shall not become final until it is served upon the grantee involved or his attorney.

(e) The authority to review initial decisions shall not be delegated. Review of any initial decision by the head of the constituent agency shall be based upon such decision, the written record, if any, of the Panel's proceedings, and written comments or oral arguments by the parties, or by their counsel, to the proceeding.

(Authority cited in the Appendices.)

§ 16.11 Separation of functions.

No person who participated in prior administrative consideration, or in the preparation or presentation of, a case submitted to the Board shall advise or consult with, and no person having an interest in such case shall make or cause to be made an ex parte communication to, the Panel, Board, or head of the constituent agency with respect to such case, unless all parties to the case are given timely and adequate notice of such advice, consultation, or communication, and reasonable opportunity to respond is given all parties.

(Authority cited in the Appendices.)

APPENDICES

This part is issued under sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 F.R. 2053, 67 Stat. 631 and is applicable to programs carried out under the following authorities:

APPENDIX A—EDUCATION PROGRAMS

(1) Section 306 of the Elementary and Secondary Education Act (20 U.S.C. 844b);

(2) Section 505 of title V of the Elementary and Secondary Education Act (except as to matters governed by part E of such title) (20 U.S.C. 866, 867, 869, 869a);

(3) Title VII of the Elementary and Secondary Education Act (20 U.S.C. 880b);

(4) Title VIII of the Elementary and Secondary Education Act (20 U.S.C. 887, 887a, 887b);

(5) Parts C, D, E, F, and G of the Education of the Handicapped Act (20 U.S.C. 1421, 1431, 1441, 1451, and 1461);

(6) Section 309 of the Adult Education Act (20 U.S.C. 1208);

(7) Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c–2000c–9);

(8) The Cooperative Research Act (20 U.S.C. 331a–332b);

(9) Sections 131(a), 142(c), and 191 of the Vocational Education Act (20 U.S.C. 1281(a), 1302(d); 1391);

(10) Parts A and B of title II of the Higher Education Act (20 U.S.C. 1021, 1031);

(11) Title III of the Higher Education Act (20 U.S.C. 1051);

(12) Section 408 of the Higher Education Act of 1965 (20 U.S.C. 1068);

(13) Title IV–D of the Higher Education Act (20 U.S.C. 1087);

(14) Section 504 and parts B–1, C, D, E, and F of the Education Professions Development Act (20 U.S.C. 1101, 1111, 1119, 1119b, 1119c);

(15) Title VI of the National Defense Education Act (20 U.S.C. 511);

(16) The Environmental Education Act (20 U.S.C. 1531);

(17) The Drug Abuse Education Act (21 U.S.C. 1001);

(18) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390);

(19) Section 411 of the General Education Provisions Act (20 U.S.C. 1222);

(20) International Education Act of 1966;

(21) Direct project grants under sections 231(a), 241, 251, 309 of the Manpower Development and Training Act (42 U.S.C. 2601(a), 2610a, 2610b, 2619).

(22) Section 404 of the General Education Provisions Act (20 U.S.C. 1221d);

(23) Direct grants under section 405 of the General Education Provisions Act (20 U.S.C. 1221e);

(24) Emergency School Aid Act, except for determinations described under § 16.5(a) (1) and (4) (20 U.S.C. 1601 et seq.).

(25) The follow through program under section 222(a)(2) of the Economic Opportunity Act of 1964, except for determinations described under § 16.5(a) (1) and (4) (42 U.S.C. 2809(a)(2)).

APPENDIX B—SOCIAL AND REHABILITATION SERVICES AND CHILD DEVELOPMENT PROGRAMS

(1) The Headstart program under section 222(a)(1) of the Economic Opportunity Act except for determinations described under § 16.5(a) (1) and (4) (42 U.S.C. 2809(a)(2)).

(2) Section 222 (a) and (b) of the Social Security Amendments of 1972 (Public Law 92–603).

(3) Section 426 of the Social Security Act (42 U.S.C. 626).

(4) Sections 102, 201, 301, and 302 of the Juvenile Delinquency Prevention Act (42 U.S.C. 3812, 3861, 3871, 3872).

(5) Sections 4(a), 12, 13(a), 13(b), and 17 of the Vocational Rehabilitation Act. (29 U.S.C. 34, 41a, 41b(a), 41b(b), and 42b).

(6) Sections 121, 122, 141 of the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 2661, 2661a, 2678).

(7) Section 1110 of the Social Security Act (42 U.S.C. 1310).

(8) Section 1115 of the Social Security Act (42 U.S.C. 1315).

(9) Sections 305, 401, and 501 of the Older Americans Act of 1965 (42 U.S.C. 3024a, 3031, 3041).

APPENDIX C—PUBLIC HEALTH PROGRAMS

(1) Section 225 of the Public Health Service Act (42 U.S.C. 234).

(2) Section 301 of the Public Health Service Act (42 U.S.C. 241).

(3) Section 303 of the Public Health Service Act (42 U.S.C. 242a).

(4) Section 304 of the Public Health Service Act (42 U.S.C. 242b).

(5) Section 306 of the Public Health Service Act (42 U.S.C. 242d).

(6) Section 308 of the Public Health Service Act (42 U.S.C. 242f).

(7) Section 309 of the Public Health Service Act (42 U.S.C. 242g).

(8) Section 310 of the Public Health Service Act (42 U.S.C. 242h).

(9) Section 314 (b), (c), and (e) of the Public Health Service Act (42 U.S.C. 246 (b), (c), and (e)).

(10) Section 317 of the Public Health Service Act (42 U.S.C. 247b).

(11) Section 318 of the Public Health Service Act (42 U.S.C. 247c).

(12) Section 393 of the Public Health Service Act (42 U.S.C. 280b-3).
(13) Section 394 of the Public Health Service Act (42 U.S.C. 280b-4).
(14) Section 395 of the Public Health Service Act (42 U.S.C. 280b-5, 6).
(15) Section 396 of the Public Health Service Act (42 U.S.C. 280b-7).
(16) Section 397 of the Public Health Service Act (42 U.S.C. 280b-8).
(17) Section 398 of the Public Health Service Act (42 U.S.C. 280b-9).
(18) Section 402 of the Public Health Service Act (42 U.S.C. 282).
(19) Section 407 of the Public Health Service Act (42 U.S.C. 286a).
(20) Section 412 of the Public Health Service Act (42 U.S.C. 287a).
(21) Section 413 of the Public Health Service Act (42 U.S.C. 287b).
(22) Section 422 of the Public Health Service Act (42 U.S.C. 288a).
(23) Section 431 of the Public Health Service Act (42 U.S.C. 289a).
(24) Section 433 of the Public Health Service Act (42 U.S.C. 289c).
(25) Section 434 of the Public Health Service Act (42 U.S.C. 289c-1).
(26) Section 444 of the Public Health Service Act (42 U.S.C. 289g).
(27) Section 453 of the Public Health Service Act (42 U.S.C. 289k).
(28) Section 704 of the Public Health Service Act (42 U.S.C. 292c).
(29) Section 720 of the Public Health Service Act (42 U.S.C. 293).
(30) Section 767 of the Public Health Service Act (42 U.S.C. 295e-1).
(31) Section 768 of the Public Health Service Act (42 U.S.C. 295e-2).
(32) Section 769 of the Public Health Service Act (42 U.S.C. 295e-3).
(33) Section 769A of the Public Health Service Act (42 U.S.C. 295e-4).
(34) Section 771 of the Public Health Service Act (42 U.S.C. 295f-1).
(35) Section 772 of the Public Health Service Act (42 U.S.C. 295f-2).
(36) Section 773 of the Public Health Service Act (42 U.S.C. 295f-3).
(37) Section 774 of the Public Health Service Act (42 U.S.C. 295f-4).
(38) Section 784 of the Public Health Service Act (§ 106(c) Public Law 92-157).
(39) Section 791 of the Public Health Service Act (42 U.S.C. 295h).
(40) Section 792 of the Public Health Service Act (42 U.S.C. 295h-1).
(41) Section 793 of the Public Health Service Act (42 U.S.C. 295h-2).
(42) Section 794A of the Public Health Service Act (42 U.S.C. 295h-3a).
(43) Section 794B of the Public Health Service Act (42 U.S.C. 295h-3b).
(44) Section 794C of the Public Health Service Act (42 U.S.C. 295h-3c).
(45) Section 802 of the Public Health Service Act (42 U.S.C. 296a).
(46) Section 805 of the Public Health Service Act (42 U.S.C. 296d).
(47) Section 810 of the Public Health Service Act (42 U.S.C. 296i).
(48) Section 821 of the Public Health Service Act (42 U.S.C. 297).
(49) Section 868 of the Public Health Service Act (42 U.S.C. 298c-7).
(50) Section 903 of the Public Health Service Act (42 U.S.C. 299c).
(51) Section 904 of the Public Health Service Act (42 U.S.C. 299d).
(52) Section 1001 of the Public Health Service Act (42 U.S.C. 300).
(53) Section 1003 of the Public Health Service Act (42 U.S.C. 300a-1).
(54) Sections 1004 and 1005 of the Public Health Service Act (42 U.S.C. 300a-2, 300a-3).
(55) Section 1101 of the Public Health Service Act (42 U.S.C. 300b).
(56) Section 1102 of the Public Health Service Act (42 U.S.C. 300b-1).
(57) Section 1111(a)(1) of the Public Health Service Act (42 U.S.C. 300c(a)(1)).
(58) Section 1111(a)(2) of the Public Health Service Act (42 U.S.C. 300c(a)(2)).
(59) Section 220 of the Community Mental Health Centers Act (42 U.S.C. 2688).
(60) Section 241 of the Community Mental Health Centers Act (42 U.S.C. 2688f).
(61) Section 242 of the Community Mental Health Centers Act (42 U.S.C. 2688g).
(62) Section 243 of the Community Mental Health Centers Act (42 U.S.C. 2688h).
(63) Section 246 of the Community Mental Health Centers Act (42 U.S.C. 2866j-1).
(64) Section 247 of the Community Mental Health Centers Act (2688j-2).
(65) Section 251 of the Community Mental Health Centers Act (42 U.S.C. 2688(k).
(66) Section 252 of the Community Mental Health Centers Act (42 U.S.C. 26881)
(67) Section 253 of the Community Mental Health Centers Act (42 U.S.C. 26881-1).
(68) Section 256 of the Community Mental Health Centers Act (42 U.S.C. 2688n-1).
(69) Section 264 of the Community Mental Health Centers Act (42 U.S.C. 2688r).
(70) Section 271 of the Community Mental Health Centers Act (42 U.S.C. 2688u).
(71) Section 272 of the Community Mental Health Centers Act (42 U.S.C. 2688v).
(72) Section 410 of Public Law 92-255—The Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1177).
(73) Section 501 of the Coal Mine Health and Safety Act (30 U.S.C. 951).
(74) Section 20 of the Occupational Health and Safety Act (29 U.S.C. 669).
(75) Section 21 of the Occupational Health and Safety Act (29 U.S.C. 670).

APPENDIX D—FOOD AND DRUG PROGRAMS

(1) Food and drug research—project grants, section 301 of the Public Health Service Act (42 U.S.C. 241).
(2) Food and drug research—product safety research, section 301(d) of the Public Health Service Act (42 U.S.C. 241).
(3) Food and drug research—pesticides research, section 301(d) of the Public Health Service Act (42 U.S.C. 241).

[FR Doc.73-7683 Filed 4-19-73;8:45 am]

federal register

FRIDAY, APRIL 20, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 76

PART III

LABOR DEPARTMENT

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Modifications, and Supersedeas Decisions to Area Wage Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Modifications and Supersedeas Decisions to Area Wage 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 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

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

Modifications and supersedeas decisions to area wage determination decisions.—Modifications and Supersedeas Decisions to Area Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 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 Secertary 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 rulemaking 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:

New area wage determination decision No. AP–295 for the State of Colorado.

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–258	Jan. 12, 1973.
AP–259; AP–260	Jan. 19, 1973.
Arkansas:	
AP–365	Dec. 8, 1972.
Colorado:	
AP–232	Sept. 15, 1972.
Idaho:	
AP–274; AP–276	Mar. 23, 1973.
Illinois:	
AP–603	Jan. 26, 1973.
Louisiana:	
AP–362; AP–363	Dec. 1, 1972.
New Mexico:	
AP–700	Feb. 9, 1973.
Rhode Island:	
AP–483	Mar. 23, 1973.
AP–484	Mar. 16, 1973.
AP–485	Mar. 9, 1973.
Washington:	
AP–283	Apr. 6, 1973.

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; supersedeas decision numbers are in parentheses following the number of the decision being superseded):

Arizona:	
AP–293 (AP–221); AP–294 (AP–222).	Aug. 18, 1973.
Kentucky:	
AP–173 (AP–134)	Oct. 13, 1972.
Nebraska:	
AP–526 (AP–523)	Mar. 30, 1973.
Texas:	
AP–705 (AP–372); AP–706 (AP–373); AP–707 (AP–374); AP–708 (AP–375); AP–709 (AP–376); AP–710 (AP–377); AP–711 (AP–378); AP–712 (AP–379); AP–713 (AP–380); AP–714 (AP–381); AP–715 (AP–382); AP–716 (AP–383); AP–717 (AP–384); AP–718 (AP–385); AP–719 (AP–386); AP–720 (A–387).	Jan. 19, 1973.
Vermont:	
AP–802 (AP–438)	Oct. 13, 1972.

Signed at Washington, D.C., this 13th day of April 1973.

WARREN D. LANDIS,
Assistant Administrator,
Wage and Hour Division.

STATE: Colorado
COUNTY: Mesa
DECISION NUMBER: AP-295
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
BUILDING CONSTRUCTION						
ASBESTOS WORKERS	$8.00	.25	.72		.02	
BOILERMAKERS	8.25	.30	1.00		.04	
BRICKLAYERS; Stonemasons	5.50					
CARPENTERS	6.87	.45	.40	.30	.03	
CEMENT MASONS	6.25	.30	.50	.60	.06	
ELECTRICIANS:						
Electricians	8.15	.32	1%		3/10%	
Cable splicers	8.40	.32	1%		3/10%	
ELEVATOR CONSTRUCTORS	7.76	.345	.23	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	5.98					
IRONWORKERS:						
Structural; Ornamental and Reinforcing	7.25	.50	.60		.04	
LABORERS:						
General Laborers:						
Laborers - underpinning and shoring 0' to 8' below working surface	4.50	.30	.35		.05	
Laborers - underpinning and shoring 8' below working surface to any depth below working surface; Power tool operators of all mechanical, air, gas, and electrical tools including self-propelled buggies and cement finisher tenders; Pipe layers; Gunnite nozzlemen and sand blasters	4.78	.30	.35		.05	
Laborers - preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels	4.80	.30	.35		.05	
Jackhammer operator - underpinning and shoring over 12' below working surface; Bellers and stemmers on caisson work	5.05	.30	.35		.05	
Mason tenders, brick and plaster	5.10	.30	.35		.05	
PAINTERS:						
Brush and roller	$7.41	.40	.15		.01	
Drywall finisher; Paperhangers	7.61	.40	.15		.01	
Spray, Swing stage	7.89	.40	.15		.01	
PLUMBERS	7.35	.45	.40	.75	.05	
ROOFERS	7.18					
SHEET METAL WORKERS	7.57	.30	.30		.07	
SOFT FLOOR LAYERS	6.60	.35	.30	.25	.03	
SPRINKLER FITTERS	8.00	.25	.40		.05	

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for over 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.

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

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
HEAVY AND HIGHWAY CONSTRUCTION						
Carpenter:						
Carpenters	6.07	.45	.40	.30	.03	
Underground carpenters	6.22	.45	.40	.30	.03	
Cement Masons	5.80	.30	.50	.30	.06	

AP-295 P. 3

HEAVY AND HIGHWAY CONSTRUCTION

CO-7-LAO-2-3 (1-3)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GROUP I Miniscus laborer, including caissons to 8', carrying reinforcing rods; Work on cross culverts, connections & side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence erectors; Metal mesh; Dowel bars; Tie bars & chairs in concrete paving; Nursery man incl. seeding, mulching & planting of trees, shrubs & flowers; Stake chaser; Gabion baskets & Reno mattresses	$4.30	.30	.35		.05	
GROUP II Chuck tenders; Nippers, core and diamond drill helpers; Powderman helpers	4.35	.30	.35		.05	
GROUP III Hot asphalt laborer; Rakers; Box-tenders; Asphalt curb machines; Pot-men (not mechanical)	4.43	.30	.35		.05	
GROUP IV Multi-plate culvert pipe; Air, gas & electric tool ops.; Barco hammers; Spaders; Electric hammers; Air tampers; Cutting torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated concrete buggies; Operators of concrete saws on pavement (other than gang saws); Timber & chain saws; Stresser or stretcherman on post tension or prestressed concrete on or off jobsite; Tool room man & checkers; Cement finisher helper; Sandblaster helper; Concrete processing material monitor; Spotters; Signalmen; Dumpmen; Transverse concrete conveyor op., mechanical grouters; Boring machines (air hydraulic); Automatic concrete power curbing machine; Jackhammers; Vibrators; Paving breakers; Frost-proofing	4.45	.30	.35		.05	

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CO-2-JAN-2-3 (2-3)

LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GROUP V Any laborers performing bridge work over 40' above the ground or above a floor & working from a bos'n chair, swinging stage, life belt or block & tackle	4.47	.30	.35		.05	
GROUP VI Gunniting & shotcrete helpers; Caissons over 12'; Cofferdams; Timbermen; Underpinning & shoring; Formsetters and/or stringmen on roads, highways, streets and airport runways; Distribution; Placing & hooking of landing mats; Bull float (hand operated) & center expansion machines; Sandblasters; Grade checkers if required by employer	4.58	.30	.35		.05	
GROUP VII Powdermen & blasters; Gunnite nozzlemen; Shotcrete op.	4.68	.30	.35		.05	
GROUP VIII Pipelayer on truck pipe lines in connection with highway work	4.75	.30	.35		.05	
GROUP IX Wagon drills & air tracks; Jackhammer ops. in caissons over 12'; Bellers & stemmen; Licensed powdermen; Diamond and core drills powered by air	4.88	.30	.35		.05	
GROUP X Any work, other than on bridges, performed by laborers working from a bos'n Chair, swinging stage, life belt or block and tackle as a safety requirement	4.93	.30	.35		.05	

CO-2-[illegible]-7-3 (3-3)

LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apprn. Tr.	O
(PIPELINES)						
All mainline sewers; Water mains; Gas, oil or any product pipelines; Penstocks; Siphons or drainage lines; Pipe plants and yards not in connection with highway construction.						
GROUP I Pipe plants and yards; Stringing of pipe or skids; Handling & signaling on line work	4.30	.30	.35		.05	
GROUP II Peteman (not mechanical); Pipewrapper, Dopers, Joep Holiday Detector Men, Bandage makers, Powderman helpers	4.35	.30	.35		.05	
GROUP III Laborers working in trenches on all pipelines; Sewer, water, gas, oil, telephone conduit, pen stock, siphons, drainage lines, caulkers, yarners, fine graders, air, gas, electric & hydraulic tools, boring machines, hydraulic jacks, drills, tampers, etc.	4.52	.30	.35		.05	
GROUP IV Sandblasters, powdermen & blasters, wiping of joint concrete pipe, inside and out; Labor, applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out	4.54	.30	.35		.05	
GROUP V (Relining Pipe) Relining pipe Mixer man	4.63 4.68	.30 .30	.35 .35		.05 .05	
GROUP VI Pipelayer	4.75	.30	.35		.05	

Colo. 1 - PBO - 1-2-3- c (1-2)

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts & Raises)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
GROUP I Asphalt Screed; Brakeman; Drill Operator, smaller than William MF & similar; Helper to Heavy Duty Mechanic and/or Welder; Tractor Operator (under 70 HP), with or without attachments; Oiler	$5.20	.32	.35	.10	.03	
GROUP II Air Compressor; Ditch Witch Trenching Machine and similar; Equipment Lubricating & Service Engineer; Fork Lift; Haulage Motorman (Brakeman); Operators of five or More Light Plants, Welding Machines, Compressors 360 C.F.M. or less, Pumps, Generators; Pugmill Operator; Pugmill; Pumps; Portable Screening Plant with or without a Spray Bar; Screening Plants-With Classifier; Self-Propelled Rollers - 5 tons & under; Vacuum Well point system	5.55	.32	.35	.10	.03	
GROUP III Asphalt Plant; Backfiller; Bituminous Spreader or Laydown Machine; Cableway Signalman; Caissons Drill; (William MF, similar and larger; C. M.I. and similar; Concrete Finish Machine; Concrete Gang Saws on Concrete Paving; Concrete Mixer (less than 1 yd.); Concrete Placement Pumps (under 8 in.); Conveyor (handling building materials); Distributors, bituminous surfaces; Drill, (diamond or core); Drill Rigs (Rotary, churn or cable tool); Elevating Graders; Engineer Fireman; Fireman or Tank Heater, Road; Grout Machine; Gunnite Machine; Hoists (1 drum); Loader (Barber Greene, etc.); Loader (up to & including 6 cu. yd.); Machine Doctor Mechanic; Motor Grader (blade); Road Stablization Machine; Rollers-Self-Propelled-all types over 5 tons Sandblasting Machine; Scrapers -						

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Colo. 1 - PEO -1-2-3-c (2-2)

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP III (cont'd)						
Single Bowl - under 40 cu. yds.; Single Unit Portable Crusher-with or without washer; Tile Tamper, Wheel Mounted; Tractor (70 h.p. and over) (with or without attachments); Trenching Machine; Welder; Winch Operator on Truck; Concrete Batching Plants	$5.90	.32	.35	.10	.03	
GROUP IV						
Concrete Mixer (over 1 cu. yd.); Concrete Paver 34 E or similar; Concrete Placement Pumps (8 in. & over); Crane (50 tons & under); Hoists (2 drums); Loader - over 6 cu. yd.; Mechanic - Welder (Heavy Duty); Mixermobile; Multiple Unit Portable Crusher - with or without washer; Pile Driver; Fireman; Cable-operated crane, truck mounted, 25 tons & over; Cable-operated power shovels, dragline; Clamshells, & backhoes (5 cu. yds. & under); Hydraulic backhoes, 1½ cu. yd. & over; Special utility Operator; Scooper; Scraper-all tandem bowls; Scraper - Single bowl including pups 40 cu. yd. & over; Self-Propelled Hydrocrane; Tractor with Side Boom; Truck Mounted Hydrocrane	6.05	.32	.35	.10	.03	
GROUP V						
Crane Operator - over 50 tons; Derrick; Electric Rail Type Tower Crane; Hoist (3 drum or more); Cable-operated Power Shovels, Draglines, Clamshells & Backhoes (over 5 cu. yd.); Quad Nine and Similar Push Unit	6.20	.32	.35	.10	.03	
GROUP VI						
Cableway; Crawler or Truck Mounted Tower Crane; Wheel Excavator; Climbing tower crane	6.35	.32	.35	.10	.03	

AP-295 P. 8

Colo. 2-PEO-1-2-3- c (1-1)

POWER EQUIPMENT OPERATORS (For Work in Tunnels, Shafts, & Raises)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
BRAKEMAN	$5.35	.32	.35	.10	.03
MOTORMAN	5.70	.32	.35	.10	.03
COMPRESSOR (900 CFM & Over), Serving tunnels, shafts & raises	5.80	.32	.35	.10	.03
AIR TRACTORS; Grout machine; Gunnite machine; Jumbo form; Mechanic; Welder	6.05	.32	.35	.10	.03
CONCRETE PLACEMENT PUMPS 8" & OVER DISCHARGE; Mechanic-Welder (Heavy Duty); Mucking Machine & Frontend Loaders Underground; Slusher	6.20	.32	.35	.10	.03
MOLE	6.60	.32	.35	.10	.03

Line Construction - Colorado	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Cable splicers	$7.40	.15	1%		3/4%	
Lineman	6.90	.15	1%		3/4%	
Equipment operator	5.90	.15	1%		3/4%	
Line equipment maintenance man	5.90	.15	1%		3/4%	
Groundman	4.90	.15	1%		3/4%	

CO-1-TD-1-2-3-b (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$4.90	.30	.20	.10		
DUMP TRUCKS, TO & INCL. 6 CU. YDS.; Sweeper; Flatrack, single axle; Liquid & bulk tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers, if used	5.00	.30	.20	.10		
DUMP TRUCKS, OVER 6 CU. YDS. TO & INCL. 12 CU. YDS.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Man haul shuttle truck or bus	5.10	.30	.20	.10		
STRADDLE TRUCK; Lumber carrier; Liquid & bulk tankers, tandem axle	5.15	.30	.20	.10		
FORK LIFT; Fuel truck; Grease truck; Combination fuel & grease; Tiremen	5.20	.30	.20	.15		
DUMP TRUCKS, OVER 12 CU. YDS., TO & INCL. 19 CU. YDS.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid & bulk tankers, semi or combination	5.25	.30	.20	.10		
MULTI-PURPOSE TRUCK - Specialty & Hoisting	5.30	.30	.20	.10		
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid & bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo & similar type equipment	5.35	.30	.20	.10		
MECHANICS	5.40	.30	.20	.10		
DUMP TRUCKS, OVER 19 CU. YDS. TO & INCL. 29 CU. YDS.; Truck driver snow plow	5.45	.30	.20	.10		

CO-1-TD-1-2-3-b (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS (cont'd)						
CEMENT MIXER, Agitator over 10 cu. yds. to & incl. 15 cu. yds.	$5.50	.30	.20	.10		
DUMP TRUCKS, OVER 29 CU. YDS. TO & INCL. 39 CU. YDS.; Heavy duty diesel mechanics; Body men; Welders or combination men	5.60	.30	.20	.10		
CEMENT MIXER, Agitator over 15 cu. yds.	5.75	.30	.20	.10		
DUMP TRUCKS, OVER 39 CU. YDS. TO & INCL. 54 CU. YDS.	5.80	.30	.20	.10		

MODIFICATION PAGE 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-258 - Mod. #1						
(38 FR 1440 - January 12, 1973)						
Statewide, Arizona						
Change:						
Bricklayers (Tucson Area):						
Zone A	$8.575	.40	.30		.02	
Zone B	8.95	.40	.30		.02	
Zone C	9.325	.40	.30		.02	
Zone D	10.075	.40	.30		.02	
Manhole Builders:						
Zone A	8.825	.40	.30		.02	
Zone B	9.20	.40	.30		.02	
Zone C	9.575	.40	.30		.02	
Zone D	10.325	.40	.30		.02	
Electricians (Gallup Area-Northern Apache County)						
Electricians	8.58	.25	1%		1/2%	
Cable splicers	9.30	.25	1%		1/2%	
Plumbers:						
Zone I	8.00	.45	.97	.75	.10	
Zone II	8.30	.45	.97	.75	.10	
Zone III	8.65	.45	.97	.75	.10	
Zone IV	9.75	.45	.97	.75	.10	
DECISION #AP-259 - Mod. #1						
(38 FR 2022 - January 19, 1973)						
Maricopa (Phoenix-Glendale-Mesa-Scottsdale-Tempe-Luke AFB and Williams AFB) County, Arizona						
Change:						
Asbestos Workers	$8.48	.50	.65		.01	
Plumbers; Pipefitters; Steamfitters:						
Zone I (0-15 miles)	8.00	.45	.97	.75	.10	
Zone II (15-30 miles)	8.30	.45	.97	.75	.10	
Zone III (30-45 miles)	8.65	.45	.97	.75	.10	
Zone IV (45 miles and beyond)	9.75	.45	.97	.75	.10	
Sprinkler fitters	8.70	.30	.50		.05	

MODIFICATION PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-260 Mod. #1						
(38 FR 2027 - January 19, 1973)						
Pima County, Arizona						
Change:						
Bricklayers; Stonemasons:						
Zone A	$8.575	.40	.30		.02	
Zone B	8.95	.40	.30		.02	
Zone C	9.325	.40	.30		.02	
Zone D	10.075	.40	.30		.02	
Plumbers; Steamfitters:						
Zone I	8.00	.45	.97	.75	.10	
Zone II	8.30	.45	.97	.75	.10	
Zone III	8.65	.45	.97	.75	.10	
Zone IV	9.75	.45	.97	.75	.10	
Sprinkler fitters	8.70	.30	.50		.05	
DECISION #AP-365 - Mod #3						
(37 FR 26203 - December 8, 1972)						
Pulaski County, Arkansas						
Change:						
Asbestos workers	7.35	.25			.02	

MODIFICATION PAGE 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-232 - Mod. #5						
(37 FR 18854 - September 15, 1972)						
Statewide, Colorado						
Change:						
Electricians:						
Adams, Arapahoe, Boulder, Clear Creek, Douglas, Eagle, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Denver, Sedgwick, Summit, Washington and Weld Counties						
Electricians	$8.00	.22	1%+.16	.18	2/10%	
Cable splicers	8.25	.22	1%+.16	.18	2/10%	
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkins, Rio Blanco, Routh, San Juan and San Miguel Counties						
Electricians	8.15	.32	1%		3/10%	
Cable splicers	8.40	.32	1%		3/10%	
Alamosa, Archulets, Baca, Bent, Chaffee, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande and Saguache Counties						
Zone 1 (Within 12 miles Pueblo Main Post Office)						
Electricians	7.95	.32	1%+.25		1/10%	
Cable splicers	8.75	.32	1%+.25		1/10%	
Zone 2 (12 to 20 miles from Pueblo Main Post Office)						
Electricians	8.35	.32	1%+.25		1/10%	
Cable splicers	9.15	.32	1%+.25		1/10%	
Zone 3 (20 to 40 miles from Pueblo Main Post Office)						
Electricians	8.70	.32	1%+.25		1/10%	
Cable splicers	9.50	.32	1%+.25		1/10%	
Zone 4 (40 miles and over from Pueblo Main Post Office)						
Electricians	9.45	.32	1%+.25		1/10%	
Cable splicers	10.25	.32	1%+.25		1/10%	
Zone 3 and 4 less than $3,000						
Electricians	5.61	.32	1%+.25		1/10%	

MODIFICATION PAGE 4

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-274 - Mod. #1						
(38 FR 7717 - March 23, 1973)						
Ada, Adams, Blaine, Boise, Butte, Camas, Canyon, Cassia, Custer, Elmore, Gem, Gooding, Jerome, Lemhi, Lincoln, Minnidoka, Owyhee, Payette, Twin Falls, Valley and Washington Counties, Idaho						
Change:						
Line Construction:						
All work over 34.5 KV and all work on steel towers and/or multiple wood structures and all sub-stations of 1000 KVA or greater capacity and all communications, underground work except street and highway lighting and motor traffic controls:						
Groundman	$5.28	.25	1%		3/4%	
Equipment operators	6.38	.25	1%		3/4%	
Lineman	6.99	.25	1%		3/4%	
Cable splicers	7.68	.25	1%		3/4%	
All work 34.5 KV and under when performed for an operating utility for work on highway lighting and motor traffic controlling:						
Groundman	5.21	.25	1%		3/4%	
Equipment operator	6.09	.25	1%		3/4%	
Lineman	6.96	.25	1%		3/4%	

MODIFICATION PAGE 5

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
DECISION #AP-276 - Mod. #1 (38 FR 7727 - March 23, 1973) Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton Counties, Idaho						
Change:						
Line Construction:						
All work over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1000 KVA or greater capacity and all communications, underground work except street and highway lighting and motor traffic controls:						
Groundman	$5.28	.25	1%		3/4%	
Equipment operators	6.38	.25	1%		3/4%	
Lineman	6.99	.25	1%		3/4%	
Cable splicer	7.68	.25	1%		3/4%	
All work 34.5 KV and under when performed for an operating utility for work on highway lighting and motor traffic controlling:						
Groundman	5.21	.25	1%		3/4%	
Equipment operator	6.09	.25	1%		3/4%	
Lineman	6.96	.25	1%		3/4%	

MODIFICATION PAGE 6

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-603 - Mod. #1 (38 FR 2572 - January 26, 1973) Williamson County, Illinois						
ADD:						
Elevator Constructors:						
Elevator Constructors	$7.74	.195	.20	2%+b&c	.005	
Helpers	5.42	.195	.20	2%+b&c	.005	
Helpers (Prob.)	3.87					
FOOTNOTES:						
b. Six Paid Holidays						
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in the business more than 5 years and 2% for employee who has worked in the business less than 5 years.						
DECISION #AP-362 - Mod. #4 (37 FR 25636 - December 1, 1972) East Baton Rouge Parish, Louisiana						
Change:						
Glaziers	$5.60					
DECISION #AP-363 - Mod. #6 (37 FR 25638 - December 1, 1972) Rapides Parish, Louisiana						
Change:						
Laborers:						
Powderman	4.05	.15	.10			
Asphalt rakers & tampers; asphalt smoothers & shovelers; blasters helpers, pipelayers (concrete & clay); Kettlemen	3.70	.15	.10			
Chain saw operator	3.65	.15	.10			
Track laborers; sewer pipe joiners & setters; concrete workers (vibrators); hod carriers; creosote material handlers & acid workers; air tool operator (jackhammer, vibrator); mason tenders (cement); mortar mixers (dry & wet); buggy operators (concrete)	3.60	.15	.10			
Laborers, building & construction Laborers, concrete; unskilled; mason tenders; plasterers' tenders; stone mason helpers; carpenter helpers	3.40	.15	.10			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-700 - Mod #5						
(38 FR 4162 - February 9, 1973)						
Statewide, New Mexico						
Change:						
General Building and Heavy Engineering Construction						
Asbestos workers (Statewide, except Union, Harding, Lea, Roosevelt and Quay Counties	$7.50	.50	.72a		.03	
Electricians (Chaves, Lincoln and Roosevelt Counties):						
The following zones shall be designated from the main post office of Roswell, Ruidoso, Portals and Carrizozo:						
Zone (a) 0 to 12 miles from main PO:						
Electricians	6.70		1%		1/10%	
Cable splicers	7.05		1%		1/10%	
Zone (b) 12 to 22 miles from main PO:						
Electricians	6.95		1%		1/10%	
Cable splicers	7.30		1%		1/10%	
Zone (c) Anything beyond 30 miles from main PO:						
Electricians	7.10		1%		1/10%	
Cable splicers	7.45		1%		1/10%	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-483 - Mod. #1						
(38 FR 7778 - March 23, 1973)						
Bristol, Kent and Providence Counties, Rhode Island						
Change:						
Building Construction:						
Lead burners	$8.25	.30		c	.01	
Heavy, Highway and Marine Construction:						
Bricklayers, stone masons, catch basin, manhole builders	8.57	.25	.35		.01	
Carpenters, piledrivers	8.55	.35	.35		.01	
Ironworkers; structural, ornamental, reinforcing	7.70	.45	.80+.50		.02	
Laborers:						
Laborers	6.50	.40	.40		.05	
Adzemen, asphalt rakers, barco-type jumping tampers, chain saw operators, concrete saw operators, demolition burners, fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipelayers, pipe trench bracers, pneumatic tool operators, riprap and dry stonewall builders, setters of metal forms for roadways, stumper operators, tree toppers, tree trimmers, wagon drill operators, wood chipper operators, concrete and power buggy operators	6.75	.40	.40		.05	
Air track operator	7.00	.40	.40		.05	
Blasters and powdermen	7.25	.40	.40		.05	
Pavers, rammers, curb setters	7.00	.40	.40		.05	
Add:						
Electricians:						
Bristol, Kent and Providence Counties	7.70	.18	1%		.02	
Omit:						
Electricians Schedule as originally issued						

MODIFICATION PAGE 9

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-484 - Mod. #1 (38 FR 7199 - March 16, 1973) Newport County, Rhode Island						
Change:						
Building Construction:						
Lead Burners	$8.25	.30		c	.01	
Heavy, Highway and Marine Construction:						
Bricklayers, stone masons, catch basin, manhole builders	8.57	.25	.35		.01	
Ironworkers:						
Structural, ornamental, reinforcing	7.70	.45	.80+.50		.02	
Laborers:						
Laborers	6.50	.40	.40		.05	
Adzemen, asphalt rakers, barco-type jumping tampers, chain saw operators, concrete and power buggy operators, concrete saw operators, demolition burners, fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipelayers, pipe trench bracers, pneumatic tool operators, riprap and dry stone-wall builders, setters of metal forms for roadways, stumper operators, tree toppers, tree trimmers, wagon drill operators, wood chipper operators	6.75	.40	.40		.05	
Air track drill operators	7.00	.40	.40		.05	
Blasters and powdermen	7.25	.40	.40		.05	
Pavers, rammers, curb setters	7.00	.40	.40		.05	
DECISION #AP-485 - Mod. #1 (38 FR 6626 - March 9, 1973) Washington County, Rhode Island						
Change:						
Building Construction:						
Carpenters and soft floor layers:						
Remainder of County:						
Carpenters, soft floor layers and piledrivermen	8.25	.35	.35			

MODIFICATION PAGE 10

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-485 (Cont'd)						
Change:						
Millwrights	$8.50	.35	.35			
Lead burners	8.25	.30		c	.01	
Heavy, Highway and Marine Construction:						
Bricklayers, stone masons, catch basin, manhole builders	8.57	.25	.35		.01	
Carpenters, piledrivermen, N. Kingstown	8.55	.35	.35		.01	
Electricians:						
Westerly	8.35	.40	1%+.20		½%	
Remainder of County	8.35	.18	1%		.02	
Ironworkers; structural, ornamental, reinforcing	7.70	.45	.80+.50		.02	
Laborers:						
Laborers	6.50	.40	.40		.05	
Adzemen, asphalt rakers, barco-type jumping tampers, chain saw operators, concrete and power buggy operators, concrete saw operators, demolition burners, fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipelayers, pipe trench bracers, pneumatic tool operators, riprap and dry stone-wall builders, setters of metal forms for roadways, stumper operators, tree toppers, tree trimmers, wagon drill operators, wood chipper operators	6.75	.40	.40		.05	
Air track operator	7.00	.40	.40		.05	
Blasters and powdermen	7.25	.40	.40		.05	
Pavers, rammers and curb setters	7.00	.40	.40		.05	
DECISION #AP 283 - Mod #1 (38 FR 8920 - April 6, 1973) Statewide, Washington						
Change:						
Bricklayers:						
Pierce County	$7.94	.40	.35		.02	

SUPERSEDEAS DECISION

STATE: Arizona COUNTY: Maricopa
DECISION NUMBER: AP-293 DATE: Date of Publication
Supersedes Decision No. AP-221 dated August 18, 1972 in 37 FR 16737
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$8.48	.50	.65		.01	
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS & STONEMASONS:						
From City Hall of Phoenix:						
Zone A (0-25 miles)	8.85	.35	.30		.03	
Zone B (25-40 miles)	9.74	.35	.30		.03	
Zone C (40-70 miles)	10.18	.35	.30		.03	
Zone D (70-100 miles)	10.62	.35	.30		.03	
CARPENTERS:						
Carpenters	7.75	.35	.60		.025	
Piledrivermen	8.00	.35	.60		.025	
Millwrights	8.125	.35	.60		.025	
CEMENT MASONS	7.585	.35	.65		.025	
DRYWALL INSTALLERS:						
From Court House in Phoenix, Mesa, incl. Williams AFB and Luke AFB:						
TAPERS:						
Zone A (0-40 miles)	6.00	.225				
Zone B (40-60 miles)	7.00	.225				
Zone C (60 miles and over)	7.25	.225				
TEXTURE SPRAYMEN:						
Zone A (0-40 miles)	6.10	.225				
Zone B (40-60 miles)	7.10	.225				
Zone C (60 miles and over)	7.35	.225				
ELECTRICIANS:						
Zone A (Power Road on East from Hunt Highway on south to 1 mile south of Pinnacle Peak Road on the north - 1 mile south of Pinnacle Peak to Cotton Lane on the west- Cotton Lane to Pecos Road on the south - Pecos Road to Price Road to Hunt Highway on the south - Hunt Highway to Power Road on the east and incl. Luke AFB):						
Electricians	8.95	.30	1%+.60		3%	
Cable splicers	9.36	.30	1%+.60		3%	
Zone B (From outside edge of Zone A thru 16 road miles from outside edge of Zone A and incl. Williams AFB):						
Electricians	10.60	.30	1%+.60		3%	
Cable splicers	11.10	.30	1%+.60		3%	
ELECTRICIANS: (Cont'd)						
Zone C (Commence at 16 road miles from outside edge of Zone A and extends to outside limits of Union jurisdiction):						
Electricians	11.43	.30	1%+.60		3%	
Cable splicers	11.97	.30	1%+.60		3%	
ELEVATOR CONSTRUCTORS	7.58	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS	8.58	.58	.625		.04	
LATHERS:						
Zone I (up to 35 miles from Phoenix)	5.60	.175			.04	
Zone II (15 miles beyond Zone I)	5.93	.175			.04	
Zone III (20 miles beyond Zone II)	6.26	.175			.04	
Zone IV (area outside Zone III)	6.60	.175			.04	
MARBLE SETTERS:						
From Phoenix:						
Zone I-VI (0-40 miles)	7.39	.35	.30		.01	
Zone VII (40-60 miles)	8.515	.35	.30		.01	
Zone VIII (60-80 miles)	9.265	.35	.30		.01	
Zone IX (over 80 miles)	9.265	.35	.30		.01	
PAINTERS:						
(Cities of Gila Bend and Sentinel):						
Brush	7.50	.29	.25		.02	
Spray	8.00	.29	.25		.02	
Structural steel	8.45	.29	.25		.02	
(Remainder of County):						
Zone A (0-40 miles from Court House in Phoenix; Williams AFB and Luke AFB):						
Brush; Soft floor layers	6.775	.275	.20	.50	.02	
Spray	7.025	.275	.20	.50	.02	
Steel and bridge brush	7.125	.275	.20	.50	.02	
Spray (steel and bridge)	7.325	.275	.20	.50	.02	
Zone B (41-60 miles from Court House in Phoenix, only):						
Brush; Soft floor layers	7.775	.275	.20	.50	.02	
Spray	8.025	.275	.20	.50	.02	
Steel and bridge, brush	8.125	.275	.20	.50	.02	
Spray (steel and bridge)	8.325	.275	.20	.50	.02	
Zone C (61 miles and over from Court House in Phoenix):						
Brush; Soft floor layers	8.275	.275	.20	.50	.02	
Spray	8.525	.275	.20	.50	.02	
Steel and bridge, brush	8.625	.275	.20	.50	.02	
Spray (steel and bridge)	8.825	.275	.20	.50	.02	
PLASTERERS:						
City of Sentinel and portion of County South thereof:	9.62	.35	.60			
Remainder of County:						
Zone A (0-40 miles from Phoenix)	7.25	.30	.50		.035	
Zone B (40-60 miles from Phoenix)	7.75	.30	.50		.035	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PLASTERERS: (cont'd)						
Remainder of County (Cont'd)						
Zone C (60-80 miles from Phoenix)	$8.00	.30	.50		.035	
Zone D (80 miles and over from Phoenix)	8.875	.30	.50		.035	
PLUMBERS:						
(Zone Base: Phoenix):						
Zone I (0-15 miles)	8.00	.45	.97	.75	.10	
Zone II (15-30 miles)	8.30	.45	.97	.75	.10	
Zone III (30-45 miles)	8.65	.45	.97	.75	.10	
Zone IV (45 miles and beyond)	9.75	.45	.97	.75	.10	
ROOFERS:						
Roofers and waterproofers	6.10	.30	.20		.02	
Pitch and enamelers	6.60	.30	.20		.02	
SHEET METAL WORKERS:						
Zone Bases; Phoenix:						
Zone I (0-25 miles)	7.59	.27	.32		.02	
Zone II (25-50 miles)	8.22	.27	.32		.02	
Zone III (50 miles and over)	9.56	.27	.32		.02	
SPRINKLER FITTERS	8.70	.30	.50		.05	
TERRAZZO WORKERS:						
Zone Bases: Phoenix:						
Zone I-VI (0-40 miles)	7.96					
Zone VII (40-60 miles)	9.085					
Zone VIII (60-80 miles)	9.835					
Zone IX (Over 80 miles)	9.835					
LINE CONSTRUCTION:						
Zone Bases; Phoenix:						
Zone 1 (0-30 miles):						
Cable splicer	8.39	.23	5%		1/2%	
Linemen	8.10	.23	5%		1/2%	
Equipment operators	7.62	.23	5%		1/2%	
Groundmen	6.61	.23	5%		1/2%	
Zone 2 (other areas):						
Cable splicer	9.53	.23	5%		1/2%	
Linemen	9.25	.23	5%		1/2%	
Equipment operators	8.78	.23	5%		1/2%	
Groundmen	7.80	.23	5%		1/2%	

FOOTNOTE:

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.

PAID HOLIDAYS:

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

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
GROUP I						
ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool Diggers and Installers; Chat Box Man; Checker, Tool Dispatcher; Concrete Dump Manbelt, 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	5.15	.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	Apprn. Tr.	Other
GROUP V						
AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt Rakers and Ironers; Driller; Grade Setter (pipeline); Hand Guided Trencher and Similar Operated Equipment; 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	Apprn. Tr.	Other
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.	Oth
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	

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	

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						

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.						

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
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);						

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TRUCK DRIVERS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
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 NUMBER: AP-294
COUNTIES: Cochise and Pima
DATE: Date of Publication

Supersedes Decision No. AP-222 dated August 18, 1972 in 37 FR 16744

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$8.48	.50	.65		.01	
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS; Stonemasons:						
Zone A (Tucson City limits through 10 miles)	8.575	.40	.30		.02	
Zone B (Tucson City limits 10-25 miles)	8.95	.40	.30		.02	
Zone C (Tucson City limits 25-40 miles)	9.325	.40	.30		.02	
Zone D (Tucson City limits over 40 miles)	10.075	.40	.30		.02	
CARPENTERS:						
Carpenters	7.75	.35	.60		.025	
Piledrivermen	8.00	.35	.60		.025	
Millwrights	8.125	.35	.60		.025	
CEMENT MASONS	7.585	.35	.65		.025	
ELECTRICIANS:						
Zone A (within 16 miles of City Hall, Tucson)	9.25	.30	1%		1/2%	
Zone B (From 16-32 miles from City Hall)	9.95	.30	1%		1/2%	
Zone C (From 32-48 miles from City Hall)	10.55	.30	1%		1/2%	
Zone D (48 miles and over)	11.25	.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.)	50%JR					
IRONWORKERS	8.58	.58	.625		.04	
LATHERS:						
Zone A (Area to 30 miles from Tucson)	8.66	.20				
Zone B (Area 30-40 miles from Tucson)	9.16	.20				
Zone C (Area 40-50 miles from Tucson)	9.41	.20				
Zone D (Area 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 miles from Tucson P.O.)	7.00	.29	.25		.02	
Zone C (41-50 miles from Tucson P.O.)	7.25	.29	.25		.02	
Zone D (51 miles and over)	7.50	.29	.25		.02	
PAINTERS, Strucutral steel, brush:						
Zone A (1-30 miles from Tucson P.O.)	7.20	.29	.25		.02	
Zone B (31-40 miles from Tucson P.O.)	7.95	.29	.25		.02	
Zone C (41-50 miles from Tucson P.O.)	8.20	.29	.25		.02	
Zone D (51 miles and over)	8.45	.29	.25		.02	
PLASTERERS:						
Zone A (0-30 miles from Tucson P.O.)	8.12	.35	.60			
Zone B (30-40 miles from Tucson P.O.)	8.62	.35	.60			
Zone C (40-50 miles from Tucson P.O.)	8.87	.35	.60			
Zone D (Over 50 miles from Tucson P.O.)	9.62	.35	.60			
PLUMBERS; Steamfitters						
Zone I (0-15 miles from Tucson)	$8.00	.45	.97	.75	.10	
Zone II (15-30 miles from Tucson)	8.30	.45	.97	.75	.10	
Zone III (30-45 miles from Tucson)	8.65	.45	.97	.75	.10	
Zone IV (45 miles and beyond Tucson)	9.75	.45	.97	.75	.10	
ROOFERS:						
Zone A						
Waterproofing, Asbestos, Shingle and Tile	6.60	.35	.10		.02	
Enamel and Pitch	7.60	.35	.10		.02	
Zone B						
Waterproofing, Asbestos, Shingle and Tile	7.85	.35	.10		.02	
Enamel and Pitch	8.85	.35	.10		.02	
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 and over from Tucson)	8.78	.48	1.00		.01	
SPRINKLER FITTERS	8.70	.30	.50		.05	
LINE CONSTRUCTION:						
Zone 1 (Tucson (within a 30 mile radius)						
Linemen	8.10	.23	5%		1/2%	
Cable splicers	8.39	.23	5%		1/2%	
Equipment operators	7.62	.23	5%		1/2%	
Groundman	6.61	.23	5%		1/2%	
Zone 2 (Other areas)						
Linemen	9.25	.23	5%		1/2%	
Cable splicer	9.53	.23	5%		1/2%	
Equipment operators	8.78	.23	5%		1/2%	
Groundmen	7.80	.23	5%		1/2%	

FOOTNOTE:
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.

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

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	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						
BARKER; CHUCKTENDER (except Tunnel); Creosote Tieman; Guinea Chaser; Powderman Helper; Rip-Rap Stone Paver; Sandblastor (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	

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	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.	Other
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; DUMPMAN; 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.	Others
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.); Drivermoto 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	

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	

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						

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	.15	.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.						

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	O
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, Retorcman 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);						

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TRUCK DRIVERS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
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 COUNTY: McCracken
DECISION NUMBER: AP-173 DATE: Date of Publication
Supersedes Decision No. AP-134 dated October 13, 1972 in 37 FR 21769.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

73-KY-1-O (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos Workers	$7.75	.15	.10			
Boilermakers - Blacksmiths	8.10	.30	.60		.01	
Bricklayers	6.75					
Carpenters:						
Carpenters	6.15	.25	.10		.03	
Millwrights and piledrivermen	6.40	.25	.10		.03	
Cement Masons	5.35	.40	.20		.03	
Cement Masons working on swinging scaffold up to 50'	5.60	.40	.20		.03	
Electricians:						
Electricians	7.80	.25	1%		½ of 1%	
Cable Spliters	8.05	.25	1%		½ of 1%	
Elevator Constructors:						
Elevator constructors	8.03	.19	.20	1½%+a+b	.005	
Helpers	5.63	.19	.20	1½%+a+b	.005	
" (probationary)	4.015	.19	.20	1½%+a+b	.005	
Glaziers	7.415	.26	.20		.01	
Ironworkers, structural, ornamental and reinforcing	7.00	.35	.50		.07	
Laborers:						
Unskilled	4.50	.25	.25			
Hod carriers, mason and finishers' tenders, mortar mixers, jackhammers, vibrators, wagon drill, chre drill, test drill and all power driven tools used by laborers (operators), all men in tunnel and crib ditch work, riprap, rock setters and handlers, asphalt rakers, tampers and smoothers, pipe layers, powdermen, tar kettlemen, grout pumpmen, deck hand, dumpmen, log turner, swamping and all straight cable hooking, pipe doping and wrapping	4.70	.25	.25			
Lathers	6.26		.10		.01	
Leadburners	8.25	.30		c	.01	
Line Construction:						
Linemen	7.85	.20	1%		½ of 1%	
Operator, truck with winch	7.85	.20	1%		½ of 1%	
Groundmen	6.13	.20	1%		½ of 1%	
Marble masons	6.75					
Painters: Commercial						
Brush	5.40	.15				
Spray	6.55	.15				
Sandblasting	6.55	.15				
Painters: Industrial						
Brush	6.20	.15				
Spray	6.85	.15				
Sandblasting	6.85	.15				
Plasterers	6.16			.20	.01	
Plumbers and steam fitters	7.80	.40	.35	.45	.08	
Roofers	$5.50		.10			
Sheet metal workers	8.55	.60	.60		.05	
Soft floor layers	6.15	.25	.10		.03	
Sprinkler fitters	8.20	.20	.40		.05	
Stone masons	6.75					
Terrazzo workers	6.75					
Tile setters	6.75					
Truck drivers:						
Up to but not including five (5) tons, such as pick-up trucks, dump, flat beds and stake bodies	5.05		d			
Five (5) tons and over, including special equipment such as Euclids, winch, dempsters, dumpsters, crawler type trucks	5.40		d			
Tractor-trailer drivers and similar equipment such as lowboys, distributors, water tank and fork lifts	5.40		d			
Ready-mix and mechanics	5.40		d			
Material checkers, tire changers, greasers, mechanics' helpers	5.10		d			
Welders - receive rate prescribed for craft performing operation to which welding is incidental						

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employer who has worked in business less than 5 years.

c. Holidays: A through F plus Washington's Birthday and Good Friday, Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Employer contributes $14.00 per week per employee.

PAID HOLIDAYS:

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

KENTUCKY 1-PSO-1 -H

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Class A Operators: Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, Clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, hopto, tow or push boat, A-Frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, ross carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydro crane, backfiller, gurries, sub-grader	$7.20	.25	.25			
Class B Operators: All air compressors, (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 H. P. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, 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 and farm tractor with						

KENTUCKY 1-PSO-1 - H

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Class B Operators (cont'd): attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor	$5.86	.25	.25			
Class C Operators: Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper	5.42	.25	.25			

SUPERSEDEAS DECISION

STATE: Nebraska
DECISION NO.: AP-526
COUNTIES: Douglas and Sarpy
DATE: Date of Publication

Supersedes Decision No. AP-523 dated March 30, 1973 in 38 FR 8393

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy & Highway Construction

28-77-Neb-1

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$8.045	.25	.25	4-1/2%	.01	
BOILERMAKERS	7.80	.30	.85		.02	
BOILERMAKERS' HELPERS	7.55	.30	.85		.02	
BRICKLAYERS, Stonemasons	7.45	.20	.20	.225		
CARPENTERS:						
Carpenters	6.86	.25	.20	.20	.02	
Piledrivermen	6.985	.25	.20	.20	.02	
Millwrights	7.11	.25	.20	.20	.02	
CEMENT MASONS	7.09	.25	.20			
ELECTRICIANS	8.68	.40	1% + .40		1/4%	
ELEVATOR CONSTRUCTORS	6.93	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	4.75	.20	.10			
IRONWORKERS:						
Ornamental, Reinforcing, Structural	7.00	.25	.20			
LABORERS:						
Common laborers	4.70	.125	.10			
Buggymobile operators; mortar mixers	4.825	.125	.10			
Mason tenders	4.825	.125	.10			
Machine and air tool operator	4.95	.125	.10			
Plasterer tenders	4.975	.125	.10			
MARBLE SETTERS	6.05	b	.10			
PAINTERS:						
Brush	6.95		.15			
Structural steel & paperhangers	7.20		.15			
Spray; swing stage; hazardous and sandblasting	7.45		.15			
PLASTERERS	6.575	.125	.20			
PLUMBERS; Steamfitters	8.64	.25	.45		.05	
ROOFERS:						
Composition	6.58	.15	.20	.20	.01	
Slate; tile	6.88	.15	.20	.20	.01	
SHEET METAL WORKERS	7.85	.15				
SOFT FLOOR LAYERS	6.80					
SPRINKLER FITTERS	8.00	.25	.40		.05	
TILE SETTERS; Terrazzo workers	6.05	b	.10			
MARBLE, TILE AND TERRAZZO WORKERS' HELPERS	$5.20					
TRUCK DRIVERS:						
Single axle	5.35	.20	.10			
Tandem axle	5.425	.20	.10			
Lowboy; trailer	5.55	.20	.10			
Lumber carriers	5.725	.20	.10			
DRYWALL:						
Tapers & finishers	6.60	.35		.40		
Spray	6.85	.35		.40		

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 and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.

b. Employer agrees to provide one-half cost of a Health & Welfare Plan (one-half cost to be paid by employee) which will provide benefits at least equal to the Omaha Construction Industry Health and Welfare Plan shall pay $.20 per hour in cash.

Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

1-NEB-PEO-1-A

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Oilers, greasers, mechanics helpers	$5.98	.25	.20			
Oiler drivers (motor truck crane)	6.08	.25	.20			
Spread oiler	6.59	.25	.20			
Conveyors and heaters; tractors 35 h.p. or under, air compressors, pumps and welding machine operators	6.33	.25	.20			
Bulldozers and fork lifts	6.85	.25	.20			
Blades, end loaders, self-propelled scrapers	6.95	.25	.20			
Concrete pumps and tractors over 35 h.p.; one drum hoist; straddle truck	6.85	.25	.20			
Two drum hoist; trenching machines, pile drivers, dredges, heavy duty mechanics; shovels, draglines, clamshells, orange peel; derricks, cranes; backhoe, winch truck and side boom or cat boom; locomotives; firemen used on high pressure boilers in construction work; economobile; and electric hammers and extractors	7.20	.25	.20			

NEBRASKA LINE CONSTRUCTION

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Linemen	7.00	.25	1% + .25		1/2%	
Cable Splicers	7.40	.25	1% + .25		1/2%	
Truck Driver	5.10	.25	1% + .25		1/2%	
Groundmen:						
(Inexperienced) 1st 6 months	2.43	.25	1% + .25		1/2%	
(Inexperienced) 2nd 6 months	3.53	.25	1% + .25		1/2%	
Thereafter	4.63	.25	1% + .25		1/2%	

1-NEB-2-3-q (1-2)

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS:						
Carpenters	6.38	.20	.20			
Piledrivermen	6.505	.20	.20			
CEMENT FINISHER	6.63	.25	.20			
IRONWORKERS: Reinforcing and Structural	6.78	.20	.20			
LABORERS:						
Common Laborer	5.00	.20	.20			
Towboat & Dredge Deckhands	5.10	.20	.20			
Form Setter Helpers	5.20	.20	.20			
Rakers & Screedmen on Asphalt Work; Mortar Mixers; Chain Saw Operator	5.18	.20	.20			
Pipelayers; Concrete Saw Operator	5.25	.20	.20			
Form Setters & Precast Manhole Setters Inlet Builders & Manhole Setters	5.63	.20	.20			
POWER EQUIPMENT OPERATORS:						
Oiler; Greaser; Mechanic's Helper; Spread Oiler (less than one year's experience)	5.18	.25	.20			
Oiler Driver	5.23	.25	.20			
Tractor under 35 HP; Welding Machine; Spray Machine; Form Trencher; Belt Machine; Air Compressors; Pumps	5.88	.25	.20			
Spread Oiler (after one year's experience in classification)	5.88	.25	.20			
Concrete Mixer; Concrete Pump; Hydro-Hammer	5.78	.25	.20			
Concrete Spreader; Concrete Finishing Machine; Bulldozer; Roller; Trax-cavator; Fork Lift; Winch Truck; One Drum Hoist; Oil Distributor; Asphalt Roller	6.08	.25	.20			
Blade (Patrol); Scraper over 35 HP; Tournapull over 35 HP; DW-21 over 35 HP; DW-10	6.23	.25	.20			
Two Drum Hoist; Trenching Machine; Paving Mixer; Pile Driver; Heavy Duty Mechanic & Welder; Shovel; Dragline; Clamshell; Orange Peel; Backhoe; Derrick; Crane; Locomotive; Fireman (on boilers); Laydown Machine; Two-Drum Winch Truck; Side Boom Cat; Pug Mill Operator on Asphalt Plant; Leverman on Dredge; Tugboat Operator; Gradall Operator; Rotary Well Drilling Operator; Hydrocrane Operator; Cleveland-type back Filler Operator; Self-propelled Spreader Vibrator Operator; Slip Form Power Operator; Engineer on Dredge	6.38	.25	.20			

1-NEB-2-3-q (2-2)

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS:						
Single Axle Trucks	5.43	.25	.20			
Tandem Axle Trucks; Power Lift Form Form Trucks; Euclid Trucks & Spreader Trucks	5.49	.25	.20			
Lowboys & Tractor-Trailers	5.62	.25	.20			
Lumber Carrier	5.79	.25	.20			

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-705

DATE: Date of Publication

Supersedes Decision No. AP-372, dated January 19, 1973, in 38 FR 2106

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

19 - Texas - 3 1 (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	3.00					
Concrete Finisher (Paving)	4.00					
Concrete Finisher Helper (Paving)	3.40					
Concrete Finisher (Structures)	3.80					
Concrete Finisher Helper (Structures)	2.25					
Concrete Rubber	3.60					
Form Builder (Structures)	4.20					
Form Builder Helper (Structures)	2.25					
Form Liner (Paving and Curb)	3.45					
Form Setter (Structures)	4.35					
Form Setter Helper (Structures)	3.15					
Laborer, Common	2.25					
Laborer, Utility Man	2.80					
Mechanic	3.75					
Mechanic Helper	3.20					
Oiler	3.40					
Serviceman	3.10					
Painter (Structures)	4.25					
Pipelayer	2.70					
Powderman	3.75					
Reinforcing Steel Setter (Paving)	3.45					
Reinforcing Steel Setter (Structures)	3.25					
Reinforcing Steel Setter Helper	2.55					
Sign Erector	3.20					
Sign Erector Helper	2.60					
Spreader Box Man	3.20					
Swamper	2.25					
Power Equipment Operators:						
Asphalt Distributor	3.30					
Asphalt Paving Machine	4.20					
Broom or Sweeper Operator	2.60					
Bulldozer, 150 HP and Less	3.50					
Bulldozer, over 150 HP	3.75					
Concrete Paving Longitudinal Float	4.20					
Paving Sub Grader	4.00					

19 - Texas - 3 1 (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)	$3.65					
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)	3.25					
Front End Loader (Over 2½ CY)	3.95					
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)	2.85					
Scrapers (17 CY and Less)	3.20					
Scrapers (Over 17 CY)	3.75					
Tractor (Crawler Type) 150 HP and Less	2.90					
Tractor (Crawler Type) Over 150 HP	3.00					
Tractor (Pneumatic) 80 HP and Less	2.60					
Tractor (Pneumatic) over 80 HP	3.00					
Traveling Mixer	3.75					
Trenching Machine, Heavy	3.75					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.85					
Tandem Axle or Semitrailer	2.25					
Weighman (Truck Scales)	2.30					
Welder	4.35					

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-706

DATE: Date of Publication

Supersedes Decision No. AP-373, dated January 19, 1973, in 38 FR 2107

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

24 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asphalt Heaterman	$2.70					
Asphalt Raker	3.00					
Asphalt Shoveler	2.35					
Batching Plant Scaleman	2.95					
Carpenter	3.75					
Carpenter Helper	3.25					
Concrete Finisher (Paving)	3.60					
Concrete Finisher (Structures)	3.25					
Concrete Finisher Helper (Structures)	2.80					
Form Builder (Structures)	3.25					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.40					
Mechanic Helper	2.25					
Oiler	2.70					
Serviceman	3.00					
Powderman	3.25					
Powderman Helper	2.50					
Sign Erector	2.75					
Sign Erector Helper	2.25					
Spreader Box Man	2.75					
Swamper	2.55					
Power Equipment Operators:						
Asphalt Distributor	3.00					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.25					
Bulldozer, 150 HP and Less	3.25					
Bulldozer, over 150 HP	3.50					
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	3.00					
Foundation Drill Operator (Truck Mounted)	3.65					
Front End Loader (2½ CY and Less)	3.00					
Front End Loader (Over 2½ CY)	3.35					
Motor Grader Operator, Fine Grade	$4.10					
Motor Grader Operator	3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	2.60					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.55					
Roller, Pneumatic (Self-Propelled)	2.45					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.50					
Tractor (Crawler Type) 150 HP and Less	2.50					
Tractor (Crawler Type) over 150 HP	3.00					
Tractor (Pneumatic) 80 HP and Less	2.50					
Tractor (Pneumatic) over 80 HP	3.00					
Traveling Mixer	3.15					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.25					
Tandem Axle or Semitrailer	2.25					
Transit-Mix	3.10					
Weighman (Truck Scales)	2.35					
Welder	3.80					

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-707

DATE: Date of Publication

Supersedes Decision No. AP-374, dated January 19, 1973, in 38 FR 2108

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

29 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.50					
Asphalt Hesterman	2.50					
Asphalt Raker	2.80					
Asphalt Shoveler	2.35					
Batching Plant Scaleman	3.05					
Carpenter	3.50					
Carpenter Helper	2.50					
Concrete Finisher (Paving)	2.80					
Concrete Finisher Helper (Paving)	2.75					
Concrete Finisher (Structures)	3.35					
Concrete Finisher Helper (Structures)	2.75					
Electrician	4.40					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.25					
Form Setter (Structures)	3.15					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.55					
Mechanic	3.00					
Mechanic Helper	2.40					
Oiler	2.50					
Serviceman	2.75					
Powderman	3.00					
Powderman Helper	2.45					
Reinforcing Steel Setter (Structures)	3.20					
Reinforcing Steel Setter Helper	2.25					
Spreader Box Man	2.70					
Power Equipment Operators:						
Asphalt Distributor	3.00					
Asphalt Paving Machine	3.05					
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					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.25					
Crane, Clamshell Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.70					

29 - Texas - 3 1 (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					
Foundation Drill Operator (Truck Mounted)	4.00					
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	3.20					
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					
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	2.50					
Weighman (Truck Scales)	2.25					
Welder	3.00					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves and Terrell

DECISION NO.: AP-708

DATE: Date of Publication

Supersedes Decision No. AP-375, dated January 19, 1973, in 38 FR 2109

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

12 - Texas - 3 1 (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	2.00					
Asphalt Shoveler	2.00					
Batching Plant Scaleman	3.20					
Carpenter	3.25					
Carpenter Helper	2.50					
Concrete Finisher (Paving)	3.15					
Concrete Finisher Helper (Paving)	2.75					
Concrete Finisher (Structures)	2.75					
Concrete Finisher Helper (Structures)	2.25					
Concrete Rubber	1.75					
Electrician	5.00					
Electrician Helper	3.25					
Form Builder (Structures)	2.65					
Form Builder Helper (Structures)	2.10					
Form Setter (Paving and Curb)	2.50					
Form Setter Helper (Paving and Curb)	1.75					
Form Setter (Structures)	3.00					
Form Setter Helper (Structures)	2.40					
Laborer, Common	1.75					
Laborer, Utility Man	2.00					
Manhole Builder, Brick	2.50					
Mechanic	3.00					
Mechanic Helper	2.35					
Oiler	2.50					
Serviceman	2.75					
Painter (Structures)	4.75					
Painter Helper (Structures)	3.75					
Pipelayer	2.50					
Pipelayer Helper	2.00					
Powderman	3.35					
Powderman Helper	2.45					
Reinforcing Steel Setter (Paving)	2.00					
Reinforcing Steel Setter (Structures)	2.60					
Reinforcing Steel Setter Helper	1.75					
Sign Erector	3.10					
Sign Erector Helper	2.60					
Spreader Box Man	2.45					
Swamper	2.00					

12 - Texas - 3 1 (2 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators:						
Asphalt Distributor	$2.55					
Asphalt Paving Machine	2.50					
Broom or Sweeper Operator	2.15					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.25					
Concrete Paving Finishing Machine	4.00					
Concrete Paving Mixer	4.10					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.50					
Crusher or Screening Plant Operator	3.00					
Foundation Drill Operator (Truck Mounted)	4.25					
Front End Loader (2½ CY and Less)	2.80					
Front End Loader (Over 2½ CY)	3.25					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	2.50					
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) over 150 HP	2.75					
Tractor (Pneumatic) 80 HP and Less	1.85					
Tractor (Pneumatic) over 80 HP	2.50					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.50					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.25					
Tandem Axle or Semitrailer	2.25					
Lowboy-Float	2.70					
Transit-Mix	2.25					
Weighman (Truck Scales)	2.50					
Welder	3.00					
Welder Helper	2.50					

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-709

DATE: Date of Publication

Supersedes Decision No. AP-376, dated January 19, 1973, in 38 FR 2110

DESCRIPTION OF WORK: Streets, Highways, Runways, Water and Sewer Utilities and Incidental Construction

16 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.40					
Asphalt Heaterman	2.75					
Asphalt Raker	2.75					
Batching Plant Scaleman	3.35					
Batterboard Setter	2.65					
Carpenter	3.35					
Carpenter Helper	2.35					
Concrete Finisher (Paving)	3.40					
Concrete Finisher Helper (Paving)	2.50					
Concrete Finisher (Structures)	3.00					
Concrete Finisher Helper (Structures)	2.60					
Concrete Rubber	2.65					
Electrician	5.10					
Fireman	2.85					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	3.20					
Form Setter (Structures)	3.00					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.15					
Mechanic	3.15					
Mechanic Helper	2.75					
Oiler	2.40					
Serviceman	2.75					
Pipelayer	2.60					
Pipelayer Helper	2.15					
Powderman	2.85					
Powderman Helper	2.00					
Reinforcing Steel Setter (Paving)	2.75					
Reinforcing Steel Setter (Structures)	3.00					
Reinforcing Steel Setter Helper	2.25					
Spreader Box Man	2.55					
Swamper	2.50					

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16 - Texas - 3 1 (2 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
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 (1½ CY and Over)	3.50					
Crusher or Screening Plant Operator	3.00					
Elevating Grader	3.00					
Foundation Drill Operator (Crawler Mounted)	3.85					
Foundation Drill Operator (Truck Mounted)	4.80					
Foundation Drill Operator Helper	3.60					
Front End Loader (2½ CY and Less)	2.75					
Front End Loader (Over 2½ CY)	3.25					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	2.25					
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)	3.15					
Tractor (Crawler Type) 150 HP and Less	2.30					
Tractor (Crawler Type) over 150 HP	2.50					
Tractor (Pneumatic) 80 HP and Less	2.00					
Tractor (Pneumatic) over 80 HP	2.50					
Traveling Mixer	2.50					
Trenching Machine	3.00					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.75					
Truck Drivers:						
Single Axle, Light	2.00					
Single Axle, Heavy	2.00					
Tandem Axle or Semitrailer	2.25					
Lowboy-Float	2.90					
Winch	2.75					
Welder	4.00					
Welder Helper	2.85					

STATE: Texas

COUNTIES: Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kennedy, Starr, Webb, Willacy and Zapata

DECISION NO.: AP-710

DATE: Date of Publication

Supersedes Decision No. AP-377, dated January 19, 1973, in 38 FR 2111

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

36 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asphalt Raker	$2.65					
Batching Plant Scaleman	3.00					
Carpenter	3.15					
Carpenter Helper	2.00					
Concrete Finisher (Paving)	2.55					
Concrete Finisher (Structures)	2.85					
Concrete Finisher Helper (Structures)	2.25					
Concrete Rubber	1.90					
Electrician	5.50					
Fireman	3.00					
Form Builder (Structures)	3.35					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	3.00					
Form Setter Helper (Paving and Curb)	2.50					
Form Setter (Structures)	3.00					
Form Setter Helper (Structures)	2.00					
Laborer, Common	1.90					
Laborer, Utility Man	2.25					
Mechanic	3.05					
Mechanic Helper	2.75					
Oiler	2.15					
Serviceman	2.35					
Painter (Structures)	2.00					
Painter Helper (Structures)	1.90					
Piledriverman	3.50					
Pipelayer	2.50					
Pipelayer Helper	1.90					
Reinforcing Steel Setter (Structures)	3.00					
Reinforcing Steel Setter Helper	2.50					
Spreader Box Man	2.60					
Power Equipment Operators:						
Asphalt Distributor	2.60					
Asphalt Paving Machine	3.00					
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 1 (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)	3.50					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.00					
Roller, Steel Wheel (Plant-Mix Pavements)	2.50					
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	2.55					
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	2.50					
Trenching Machine, Heavy	3.25					
Truck Drivers:						
Single Axle, Light	1.90					
Single Axle, Heavy	2.00					
Tanden Axle or Semitrailer	1.90					
Welder	3.25					
Welder Helper	2.75					

SUPERSEDEAS DECISION

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-711 DATE: Date of Publication

Supersedes Decision No. AP-378, dated January 19, 1973, in 38 FR 2112

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

15 - Texas - 3 1 (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	2.90					
Batterboard Setter	2.60					
Carpenter	3.00					
Carpenter Helper	2.25					
Concrete Finisher (Paving)	3.25					
Concrete Finisher (Structures)	2.85					
Concrete Finisher Helper (Structures)	2.45					
Electrician	5.00					
Electrician Helper	4.13					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.25					
Form Setter (Paving and Curb)	3.00					
Form Setter Helper (Paving and Curb)	2.00					
Form Setter (Structures)	2.70					
Form Setter Helper (Structures)	2.15					
Laborer, Common	2.00					
Laborer, Utility Man	2.40					
Manhole Builder, Brick	2.50					
Mechanic	3.35					
Mechanic Helper	2.50					
Oiler	2.50					
Pipelayer	2.20					
Reinforcing Steel Setter (Structures)	2.80					
Reinforcing Steel Setter Helper	2.25					
Spreader Box Man	2.75					
Power Equipment Operators:						
Asphalt Distributor	2.85					
Asphalt Paving Machine	3.00					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.15					
Concrete Paving Saw	2.25					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.00					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.75					

15 - Texas - 3 1 (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)	$2.50					
Front End Loader (Over 2½ CY)	3.15					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.00					
Roller, Steel Wheel (Plant-Mix Pavements)	2.65					
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 17 CY)	2.90					
Tractor (Crawler Type) over 150 HP	2.85					
Tractor (Pneumatic) 80 HP and Less	2.00					
Tractor (Pneumatic) over 80 HP	2.25					
Traveling Mixer	2.50					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.25					
Truck Drivers:						
Single Axle, Light	2.00					
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-712

DATE: Date of Publication

Supersedes Decision No. AP-379, dated January 19, 1973, in 38 FR 2113

DESCRIPTION OF WORK: Streets, Highways, Runways, Water and Sewer Utilities and Incidental Construction

18 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.30					
Asphalt Raker	2.85					
Batching Plant Scaleman	3.50					
Carpenter	3.45					
Carpenter Helper	2.25					
Concrete Finisher (Structures)	3.15					
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)	2.30					
Laborer, Common	2.00					
Laborer, Utility Man	2.25					
Mechanic	3.30					
Mechanic Helper	2.40					
Oiler	2.25					
Serviceman	2.85					
Pipelayer	3.15					
Powderman	3.25					
Powderman Helper	2.00					
Reinforcing Steel Setter (Paving)	2.75					
Reinforcing Steel Setter (Structures)	3.55					
Reinforcing Steel Setter Helper	2.75					
Power Equipment Operators:						
Asphalt Distributor	3.00					
Asphalt Paving Machine	3.05					
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 (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)	4.35					

18 - Texas - 3 1 (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)	3.50					
Motor Grader Operator, Fine Grade	3.75					
Motor Grader Operator	3.25					
Roller, Steel Wheel (Plant-Mix Pavements)	2.95					
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) over 150 HP	2.75					
Tractor (Pneumatic) 80 HP and Less	2.20					
Tractor (Pneumatic) over 80 HP	2.55					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.75					
Truck Drivers:						
Single Axle, Light	2.00					
Single Axle, Heavy	2.25					
Tandem Axle or Semitrailer	2.50					
Welder	3.85					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan and Navarro

DECISION NO.: AP-713

DATE: Date of Publication

Supersedes Decision No. AP-380, dated January 19, 1973, in 38 FR 2114

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

22 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.65					
Asphalt Raker	2.85					
Batching Plant Scaleman	3.25					
Carpenter	3.25					
Carpenter Helper	2.45					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	2.90					
Concrete Finisher (Structures)	3.45					
Concrete Finisher Helper (Structures)	2.50					
Concrete Rubber	2.80					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	3.00					
Form Setter (Paving and Curb)	3.15					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.25					
Laborer, Common	2.00					
Laborer, Utility Man	2.40					
Manhole Builder, Brick	3.50					
Mechanic	4.00					
Mechanic Helper	3.00					
Oiler	3.25					
Serviceman	2.25					
Pipelayer	3.00					
Pipelayer Helper	2.40					
Powderman	3.25					
Powderman Helper	2.85					
Reinforcing Steel Setter (Structures)	3.10					
Reinforcing Steel Setter Helper	2.00					
Spreader Box Man	3.25					
Swamper	2.60					
Power Equipment Operators:						
Asphalt Distributor	3.25					
Asphalt Paving Machine	3.00					
Bulldozer, 150 HP and Less	3.30					
Bulldozer, over 150 HP	3.50					
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)	3.80					

22 - Texas - 3 1 (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	$3.25					
Foundation Drill Operator (Truck Mounted)	4.50					
Front End Loader (2½ CY and Less)	3.25					
Front End Loader (Over 2½ CY)	3.50					
Motor Grader Operator, Fine Grade	3.50					
Motor Grader Operator	3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	2.50					
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					
Tractor (Crawler Type) 150 HP and Less	2.50					
Tractor (Crawler Type) over 150 HP	3.00					
Tractor (Pneumatic) 80 HP and Less	2.75					
Tractor (Pneumatic) over 80 HP	3.10					
Traveling Mixer	2.50					
Trenching Machine	3.00					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.75					
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-714

DATE: Date of Publication

Supersedes Decision No. AP-381, dated January 19, 1973, in 38 FR 2115

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction (excluding Dallas-Fort Worth Regional Airport)

13 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.60					
Asphalt Baker	3.25					
Asphalt Shoveler	2.50					
Batching Plant Scaleman	3.00					
Carpenter	3.50					
Carpenter Helper	2.70					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	2.95					
Concrete Finisher (Structures)	3.50					
Concrete Finisher Helper (Structures)	2.85					
Concrete Rubber	2.85					
Electrician	5.00					
Form Builder (Structures)	3.65					
Form Builder Helper (Structures)	2.50					
Form Liner (Paving and Curb)	3.50					
Form Setter (Paving and Curb)	3.25					
Form Setter Helper (Paving and Curb)	2.75					
Form Setter (Structures)	3.60					
Form Setter Helper (Structures)	3.25					
Laborer, Common	2.25					
Laborer, Utility Man	2.50					
Mechanic	3.65					
Oiler	2.85					
Serviceman	2.65					
Pipelayer	3.25					
Powderman	3.25					
Reinforcing Steel Setter (Paving)	2.40					
Reinforcing Steel Setter (Structures)	3.50					
Reinforcing Steel Setter Helper	2.40					
Sign Erector	4.00					
Sign Erector Helper	2.75					
Spreader Box Man	3.25					
Power Equipment Operators:						
Asphalt Distributor	3.00					
Asphalt Paving Machine	3.50					
Bulldozer, 150 HP and Less	3.40					
Bulldozer, over 150 HP	3.50					
Concrete Paving Finishing Machine	3.50					
Concrete Paving Joint Sealer	3.50					
Power Equipment Operators (Cont'd):						
Concrete Paving Saw	$3.50					
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	2.85					
Foundation Drill Operator (Truck Mounted)	4.10					
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)	3.50					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.80					
Roller, Pneumatic (Self-Propelled)	2.50					
Scrapers (17 CY and Less)	3.25					
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	2.75					
Tractor (Pneumatic) over 80 HP	3.25					
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					
Welder	3.35					

13 - Texas - 3 1 (2 - 2)

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Collin, Dallas, Ellis, Grayson and Rockwall

DECISION NO.: AP-715

DATE: Date of Publication

Supersedes Decision No. AP-382, dated January 19, 1973, in 38 FR 2116

DESCRIPTION OF WORK: Streets, Highways, Runways, Water and Sewer Utilities and Incidental Construction (excluding Dallas-Fort Worth Regional Airport)

11 - Texas - 3 j (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.65					
Asphalt Raker	3.50					
Asphalt Shoveler	2.50					
Batching Plant Scaleman	2.50					
Carpenter	3.60					
Carpenter Helper	3.00					
Concrete Finisher (Paving)	3.50					
Concrete Finisher Helper (Paving)	3.00					
Concrete Finisher (Structures)	3.50					
Concrete Finisher Helper (Structures)	3.00					
Concrete Rubber	2.70					
Form Builder (Structures)	3.65					
Form Builder Helper (Structures)	3.00					
Form Liner (Paving and Curb)	3.75					
Form Setter (Paving and Curb)	3.35					
Form Setter Helper (Paving and Curb)	2.75					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	3.00					
Laborer, Common	2.25					
Laborer, Utility Man	2.50					
Mechanic	3.60					
Mechanic Helper	2.75					
Oiler	2.75					
Pipelayer	3.25					
Powderman	3.60					
Powderman Helper	3.25					
Reinforcing Steel Setter (Paving)	2.50					
Reinforcing Steel Setter (Structures)	3.50					
Reinforcing Steel Setter Helper	2.40					
Steel Worker (Structural)	3.00					
Steel Worker Helper (Structural)	2.25					
Power Equipment Operators:						
Asphalt Distributor	3.50					
Asphalt Paving Machine	3.25					
Broom or Sweeper Operator	3.25					
Bulldozer, 150 HP and Less	3.00					
Bulldozer, over 150 HP	3.75					
Concrete Paving Finishing Machine	3.50					
Concrete Paving Joint Sealer	3.50					
Concrete Paving Mixer	3.70					

11 - Texas - 3 j (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					
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					
Foundation Drill Operator (Truck Mounted)	3.25					
Foundation Drill Operator Helper	2.95					
Front End Loader (2½ CY and Less)	2.55					
Front End Loader (Over 2½ CY)	3.50					
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)	3.00					
Roller, Pneumatic (Self-Propelled)	2.90					
Scrapers (17 CY and Less)	3.30					
Scrapers (Over 17 CY)	3.50					
Tractor (Crawler Type) 150 HP and Less	2.75					
Tractor (Crawler Type) over 150 HP	3.50					
Tractor (Pneumatic) 80 HP and Less	2.50					
Tractor (Pneumatic) over 80 HP	2.75					
Traveling Mixer	3.00					
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00					
Truck Drivers:						
Single Axle, Light	2.50					
Single Axle, Heavy	2.75					
Tandem Axle or Semitrailer	2.50					
Transit-Mix	2.50					
Winch	3.20					
Vibrator Man (Hand Type)	3.00					
Welder	4.00					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt and Wood

DECISION NO.: AP-716

DATE: Date of Publication

Supersedes Decision No. AP-383, dated January 19, 1973, in 38 FR 2117

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

30 - 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	3.25					
Asphalt Shoveler	2.40					
Batching Plant Scaleman	3.05					
Carpenter	3.50					
Carpenter Helper	3.00					
Concrete Finisher (Paving)	3.75					
Concrete Finisher Helper (Paving)	3.00					
Concrete Finisher (Structures)	3.50					
Concrete Finisher Helper (Structures)	2.75					
Concrete Rubber	2.65					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.65					
Form Liner (Paving and Curb)	3.35					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.65					
Laborer, Common	2.00					
Laborer, Utility Man	2.60					
Mechanic	3.50					
Mechanic Helper	3.25					
Oiler	2.75					
Serviceman	2.60					
Painter (Structures)	4.05					
Reinforcing Steel Setter (Structures)	2.95					
Spreader Box Man	2.70					
Swamper	2.35					
Power Equipment Operators:						
Asphalt Distributor	2.95					
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 1½ CY)	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	3.75					

30 - Texas - 3 1 (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)	$5.25					
Foundation Drill Operator (Truck Mounted)	4.50					
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)	3.25					
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	3.00					
Traveling Mixer	3.05					
Trenching Machine, Light	3.00					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.50					
Winch	3.00					
Weighman (Truck Scales)	2.75					
Welder	3.25					

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-717

DATE: Date of Publication

Supersedes Decision No. AP-384, dated January 19, 1973, in 38 FR 2118

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

111 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asphalt Heaterman	$2.75					
Asphalt Raker	2.95					
Asphalt Shoveler	2.60					
Batching Plant Scaleman	3.00					
Carpenter	3.45					
Carpenter Helper	2.60					
Concrete Finisher (Paving)	3.85					
Concrete Finisher (Structures)	3.25					
Concrete Finisher Helper (Structures)	2.65					
Concrete Rubber	2.85					
Form Builder (Structures)	3.50					
Form Builder Helper (Structures)	2.60					
Form Setter (Structures)	3.50					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.55					
Mechanic	3.50					
Mechanic Helper	3.00					
Oiler	2.50					
Piledriverman	3.25					
Pipelayer	3.25					
Reinforcing Steel Setter (Structures)	3.10					
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	3.25					
Asphalt Paving Machine	3.05					
Bulldozer, 150 HP and Less	3.15					
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 1 (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)	3.55					
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)	2.55					
Roller, Pneumatic (Self-Propelled)	2.75					
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	2.55					
Tractor (Pneumatic) over 80 HP	3.25					
Traveling Mixer	2.30					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.30					
Tandem Axle or Semitrailer	2.50					
Lowboy-Float	3.25					
Welder	3.60					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brazos, Burleson, Crimes, Leon, Madison, Milam, Robertson, Walker and Washington

DECISION NO.: AP-718

DATE: Date of Publication

Supersedes Decision No. AP-385, dated January 19, 1973, in 38 FR 2119

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

25 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asphalt Heaterman	$2.75					
Asphalt Raker	2.95					
Batching Plant Scaleman	2.70					
Carpenter	3.00					
Carpenter Helper	2.75					
Concrete Finisher (Structures)	3.50					
Concrete Finisher Helper (Structures)	2.50					
Electrician	6.25					
Fireman	3.00					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.25					
Form Liner (Paving and Curb)	3.50					
Form Setter (Structures)	3.25					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.00					
Mechanic Helper	2.50					
Oiler	2.25					
Serviceman	2.40					
Pipelayer	3.00					
Pipelayer Helper	2.75					
Reinforcing Steel Setter (Structures)	3.00					
Reinforcing Steel Setter Helper	2.35					
Power Equipment Operators:						
Asphalt Paving Machine	3.20					
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 (1½ CY and Over)	3.50					
Crusher or Screening Plant Operator	3.10					
Foundation Drill Operator (Truck Mounted)	3.60					
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					

25 - Texas - 3 1 (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)	$3.00					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.20					
Roller, Pneumatic (Self-Propelled)	2.30					
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	3.25					
Tractor (Pneumatic) 80 HP and Less	2.50					
Tractor (Pneumatic) over 80 HP	2.60					
Traveling Mixer	2.50					
Trenching Machine, Light	3.25					
Truck Drivers:						
Single Axle, Light	2.25					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.25					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brazoria, Fort Bend, Galveston, Harris, Matagorda, Montgomery, Waller and Wharton

DECISION NO.: AP-719

DATE: Date of Publication

Supersedes Decision No. AP-386, dated January 19, 1973, in 38 FR 2120

DESCRIPTION OF WORK: Streets, Highways, Runways, Water and Sewer Utilities and Incidental Construction

14 - Texas - 3 1 (1 - 2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.90					
Asphalt Raker	3.10					
Asphalt Shoveler	2.50					
Batching Plant Scaleman	3.15					
Carpenter	4.00					
Carpenter Helper	3.00					
Concrete Finisher (Paving)	4.00					
Concrete Finisher Helper (Paving)	3.25					
Concrete Finisher (Structures)	3.65					
Concrete Finisher Helper (Structures)	3.00					
Concrete Rubber	3.15					
Electrician	5.70					
Form Builder (Structures)	3.75					
Form Builder Helper (Structures)	2.75					
Form Liner (Paving and Curb)	3.85					
Form Setter (Paving and Curb)	3.50					
Form Setter Helper (Paving and Curb)	2.75					
Form Setter (Structures)	3.75					
Form Setter Helper (Structures)	3.00					
Laborer, Common	2.25					
Laborer, Utility Man	2.75					
Manhole Builder, Brick	4.00					
Mechanic	4.00					
Mechanic Helper	3.35					
Oiler	3.15					
Serviceman	3.30					
Painter (Structures)	4.50					
Painter Helper (Structures)	3.00					
Piledriverman	4.00					
Pipelayer	3.50					
Pipelayer Helper	3.00					
Reinforcing Steel Setter (Paving)	3.50					
Reinforcing Steel Setter (Structures)	3.60					
Reinforcing Steel Setter Helper	2.85					
Steel Worker (Structural)	3.50					
Steel Worker Helper (Structural)	3.45					
Sign Erector	3.00					

AP-719 P. 2

14 - Texas - 3 1 (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 H.P. and Less	3.25					
Bulldozer, over 150 H.P.	3.70					
Concrete Paving Curing Machine	3.35					
Concrete Paving Finishing Machine	3.60					
Concrete Paving Form Grader	3.25					
Concrete Paving Joint Machine	3.25					
Concrete Paving Mixer	4.00					
Concrete Paving Saw	3.25					
Concrete Paving Spreader	3.90					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.75					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.00					
Crusher or Screening Plant Operator	3.25					
Foundation Drill Operator (Crawler Mounted)	4.35					
Foundation Drill Operator (Truck Mounted)	4.00					
Front End Loader (2½ CY and Less)	3.25					
Front End Loader (Over 2½ CY)	3.65					
Mixer (16 CF and Less)	3.25					
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)	3.00					
Roller, Pneumatic (Self-Propelled)	2.75					
Scrapers (17 CY and Less)	3.00					
Scrapers (Over 17 CY)	3.25					
Self-Propelled Hammer	3.25					
Tractor (Crawler Type) 150 HP and Less	3.00					
Tractor (Crawler Type) over 150 HP	3.45					
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					
Transit-Mix	2.50					
Winch	3.15					
Vibrator Man (Hand Type)	2.50					
Weighman (Truck Scales)	2.50					
Welder	4.60					
Welder Helper	2.75					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Chambers, Hardin, Jefferson, Liberty and Orange

DECISION NO.: AP-720

DATE: Date of Publication

Supersedes Decision No. AP-387, dated January 29, 1973, in 38 FR 2121

DESCRIPTION OF WORK: Streets, Highways, Runways and Incidental Construction

17 - 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	3.10					
Carpenter	4.00					
Carpenter Helper	3.10					
Concrete Finisher (Paving)	3.75					
Concrete Finisher Helper (Paving)	3.05					
Concrete Finisher (Structures)	4.00					
Concrete Finisher Helper (Structures)	3.10					
Concrete Rubber	2.90					
Electrician	6.00					
Form Builder (Structures)	3.65					
Form Setter (Paving and Curb)	3.10					
Form Setter Helper (Paving and Curb)	3.00					
Form Setter (Structures)	3.75					
Form Setter Helper (Structures)	2.95					
Laborer, Common	2.25					
Laborer, Utility Man	2.90					
Mechanic	4.00					
Oiler	3.30					
Painter (Structures)	3.85					
Piledriverman	3.50					
Pipelayer	2.95					
Reinforcing Steel Setter (Structures)	3.55					
Reinforcing Steel Setter Helper	2.75					
Spreader Box Man	3.00					
Power Equipment Operators:						
Asphalt Distributor	3.50					
Asphalt Paving Machine	4.00					
Bulldozer, 150 HP and Less	3.50					
Bulldozer, over 150 HP	3.75					
Concrete Paving Curing Machine	3.80					
Concrete Paving Finishing Machine	3.75					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.75					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.00					
Front End Loader (2½ CY and Less)	3.20					
Front End Loader (Over 2½ CY)	4.10					
Motor Grader Operator, Fine Grade	4.00					
Motor Grader Operator	3.75					

17 - Texas - 3 1 (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)	$3.50					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.75					
Roller, Pneumatic (Self-Propelled)	2.50					
Scrapers (17 CY and Less)	3.50					
Scrapers (Over 17 CY)	3.75					
Tractor (Pneumatic) 80 HP and Less	3.00					
Tractor (Pneumatic) over 80 HP	3.20					
Truck Drivers:						
Single Axle, Light	2.25					
Tandem Axle or Semitrailer	2.50					
Lowboy-Float	4.00					
Welder	4.00					
Welder Helper	2.75					

SUPERSEDEAS DECISION

STATE: Vermont
COUNTIES: Statewide, except Rutland County
DECISION NO. AP-802
DATE: Date of Publication
Supersedes Decision AP-438, dated October 13, 1972, in 37 FR 21693.
DESCRIPTION OF WORK: Highway Construction

VERMONT HIGHWAY CONSTRUCTION (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CARPENTERS:						
(Addison, Chittenden, Franklin, Grand Isle, & Lamoille Counties)						
Carpenters	$6.30	.20	.10	a		
Millwrights	6.55	.20	.10	a		
Piledrivermen	6.65	.20	.10	a		
(Bennington County)						
Carpenters	6.20	.20	.20	a		
Millwrights	6.45	.20	.20	a		
Piledrivermen	6.55	.20	.20	a		
(Caledonia, Essex, Orange, Orleans, & Washington Counties)						
Carpenters	5.95			a		
Millwrights	6.20			a		
Piledrivermen	6.30			a		
(Windsor County)						
Carpenters	6.40	.20		a		
Millwrights	6.00	.20		a		
Piledrivermen	6.75	.20		a		
LABORERS:						
(Addison, Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans, Washington, & Windsor Counties)						
Laborers, Chuck tenders	3.85	.15		b		
Air tool op., Drillers, Pipelayers, Powdermen, Scalers, & Vibrator op.	4.10	.15		b		
Blasters	4.35	.15		b		
(Bennington, & Windham Counties)						
Laborers, Asphalt rakers	3.95	.15	.15			
Air tool op., Concrete pipelayers, Scalers on boatmen's chair, Vibrators, & Wagon drillers	4.20	.15	.15			
Blasters, & Powdermen	4.45	.15	.15			
TRUCK DRIVERS:						
Two axle equipment	5.00	.25				
Three axle equipment	5.15	.25				
Specialized earth moving equipment	5.25	.25				

AP-802 P. 2

VERMONT HIGHWAY CONSTRUCTION (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
Shovels, crawler and truck cranes, derricks, backhoes, trenching machines, elevating grader, gradall, pile drivers, concrete pavers on site processing plant (engineer in charge), dragline, clam shell, cableways	$7.90	.25	.35	c	.05	
Rotary drill (with mounted compressor), compressor house (3 to 6 compressor), rock & earth boring machines (excluding McCarthy & similar drills), grader, 4-yd. or over front end loader (used as a loader)	7.65	.25	.35	c	.05	
Bulldozer, push cats, scraper (self-propelled or tractor-drawn), self-powered asphalt paver, 3/4 yd. to 4 yd. front end loader, mechanics, well driller, pumpcrete machine, engineer or fireman on high pressure boiler (on job) self-loading batch plant (on job), well point operators	7.45	.25	.35	c	.05	
Hoists, conveyors, self-powered rollers & compactors, power pavement breaker, self-propelled material spreader, self-powered concrete finishing machine, two bag mixer with skip, front end loader under 3/4 yd), McCarthy & similar drills, batch plant (not self-loading), bulk cement plant, 3 or more welding machines	6.90	.25	.35	c	.05	
Compressor (315 cu. ft. or over, one or two), pump 4" or over, tractor w/o blade drawing sheepsfoot, rubber tired roller or other type of compactors including machines for pulverizing & aerating soil	6.575	.25	.35	c	.05	
Compressor (up to 315 cu. ft.), small mixers with skip, oiler, pumps up to 4", grease truck, power heaters, A frame trucks, fork lift	6.05	.25	.35	c	.05	

FOOTNOTES:

a. 2 Paid Holidays: Memorial Day, & Independence Day, provided the employee work the day before and the day after the holiday.

b. 2 Paid Holidays: Memorial Day, & Independence Day, provided the employee has been employed for at least 7 days or more prior to the holiday and has worked 2 full days in the calendar week in which the holiday falls.

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.

[FR Doc.73-7450 Filed 4-19-73;8:45 am]

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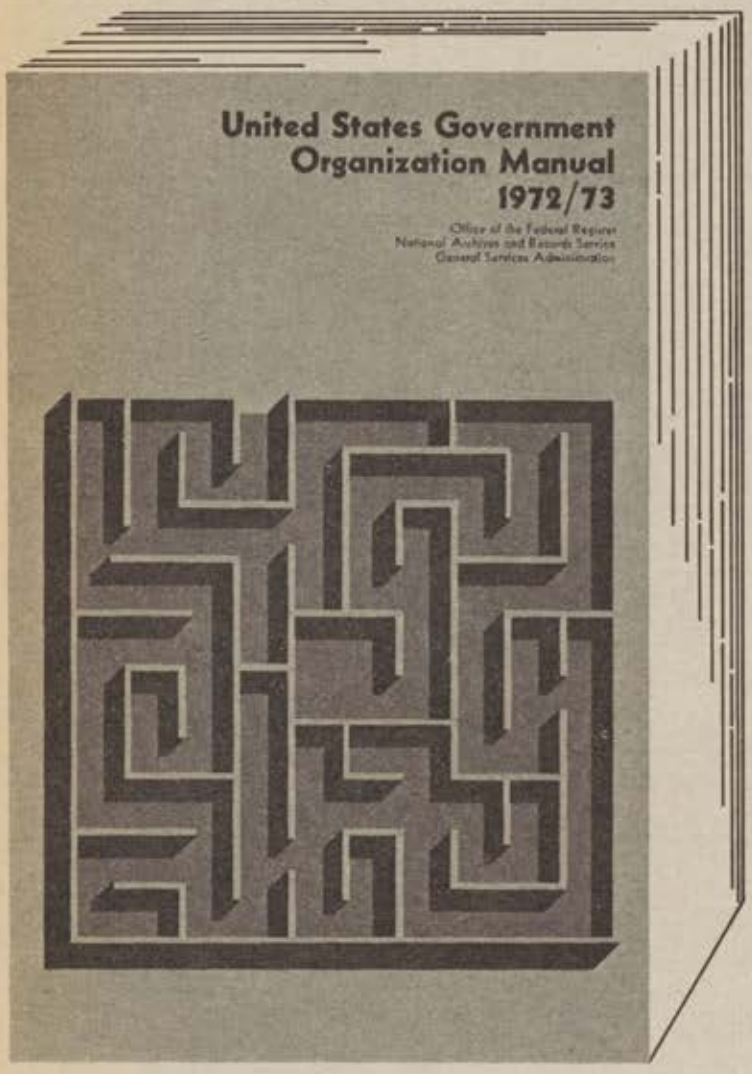

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