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

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Title 3—The President

EXECUTIVE ORDER 11744

Cost-of-Living Allowance Provided to Employees of the Joint Federal-State Land Use Planning Commission for Alaska

The Joint Federal-State Land Use Planning Commission for Alaska (hereinafter referred to as "the Commission") was established in the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92–203, 85 Stat. 688 which is hereinafter referred to as "the Act") to render advice to the Federal Government and the government of the State of Alaska with respect to the planning, ownership, use, and management of lands located in the State of Alaska. Section 17(a)(5) of the Act provides that Commission employees may be hired

> * * * without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates * * *

and gives the Federal and State co-chairmen the authority "to appoint and fix the compensation of such staff personnel as they deem necessary."

Pursuant to this authority, Jack O. Horton, then Federal Co-Chairman, and Governor William A. Egan, State Co-Chairman, agreed prior to the hiring of the first Commission employee that all such employees should be compensated in accordance with the pay scale for General Schedule Federal employees and should receive a cost-of-living allowance (hereinafter referred to as "COLA") identical to that provided other General Schedule employees serving in Alaska, said agreement being formalized in a regulation initially released on October 24, 1972, and subsequently amended to read as follows:

> "4.4 *Compensation of Staff.*
>
> (a) Employees of the Commission shall be paid at a GS rate of salary determined for their respective positions by the co-chairmen and/or Director; and shall be entitled to receive a twenty-five (25%) percent living cost differential in addition to the base rate of salary which shall be accounted for separately from the base salary.
>
> (b) Employees of the Commission shall also be entitled to obtain and receive all insurance, leave, retirement, and other benefits available to Federal employees in Alaska."

With respect to the Federal taxation of this allowance, 26 U.S.C. Section 912 provides in relevant part:

> "The following items shall not be included in gross income, and shall be exempt from taxation under this subtitle:

* * * * *

(2) Cost-of-living allowances.—In the case of civilian officers or employees of the Government of the United States stationed outside the continental United States (other than Alaska), amounts (other than amounts received under title II of the Overseas Differentials and Allowances Act) received as cost-of-living allowances in accordance with regulations approved by the President,"

* * * * *

In an opinion dated April 27, 1973, the Internal Revenue Service held that employees hired by the Commission are Federal employees within the meaning of 26 U.S.C. Section 912(2) but concluded for the reasons set out below that the COLA provided to them pursuant to Commission Regulation 4.4 is subject to Federal taxation.

NOW, THEREFORE, by virtue of the authority vested in me by 26 U.S.C. Section 912(2) and for the reasons set out below, I hereby approve Commission Regulation 4.4 subject to the qualifications and limitations provided in the next two sentences. Said approval shall be retroactive to the date when the first Commission employee was hired, shall apply only to the COLA paid Commission employees actually serving in Alaska, and shall remain in effect as long as: (a) the pay scale for Commission personnel corresponds exactly to that applicable to General Schedule Federal employees; (b) that portion of Regulation 4.4 which deals with the payment of COLA remains effective in substantially its present form; and (c) COLA is provided pursuant to Executive Order No. 10000 of September 16, 1948, entitled "Regulations Governing Additional Compensation and Credit Granted Certain Employees of the Federal Government Serving Outside the United States," to General Schedule Federal employees serving in Alaska. Except where expressly inconsistent with this order, the requirements of Executive Order No. 10000 shall govern the payment of COLA granted to Commission employees.

This order is based on the following findings and conclusions:

1. Pursuant to Executive Order No. 10000, the United States Civil Service Commission has been delegated the authority granted to the President in 5 U.S.C. Section 5941 to designate areas outside the contiguous forty-eight states where certain Federal employees are entitled to receive COLA to compensate them, among other things, for living costs which are substantially higher than those in the District of Columbia. In accordance with this authority, the Commission has designated Alaska as a location where General Schedule employees are to be paid a 25 percent COLA. Under 26 U.S.C. Section 912(2), this allowance is exempt from Federal taxation.

2. Pursuant to the authority granted in Section 17(a)(5) of the Act, the Commission, with the approval of the co-chairmen, has promulgated a valid regulation authorizing the provision of the same COLA to Com-

mission employees serving in Alaska that is paid to General Schedule employees serving there.

3. The Bureau of Land Management of the United States Department of the Interior, which provides administrative support to the Commission, accounts for the COLA paid to Commission employees in accordance with Government practices customarily utilized in Alaska for such purposes.

4. The Commission, with the approval of the co-chairmen, has agreed upon a pay scale for compensating staff personnel which corresponds exactly to that enacted by Congress for compensating General Schedule Federal employees.

5. Since the appointment and compensation of Commission employees are expressly exempted from the Civil Service laws by Section 17(a)(5) of the Act, the COLA provided to such personnel is not subject to the approval of the Civil Service Commission under Executive Order No. 10000, which, in accordance with 5 U.S.C. Section 5941, applies only to employees whose rates of basic pay are fixed by statutes. For this reason, the Internal Revenue Service has ruled that such COLA is subject to Federal income taxation as not having been paid in accordance with regulations approved by the President as required by 26 U.S.C. Section 912(2).

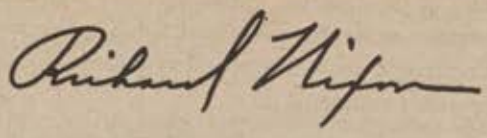
6. The underlying reasons for granting a COLA to General Schedule employees serving in Alaska and elsewhere and for exempting said COLA from Federal income taxation apply equally to the COLA provided to Commission employees. (In fact, because Section 17(a)(4)(B) of the Act expressly provides that the Federal co-chairman shall be compensated at a rate not to exceed that fixed for level V executive employees, the COLA paid to him is exempt from Federal taxation under 26 U.S.C. Section 912(2).) These reasons include the high cost of living in Alaska, the need to attract qualified employees to the Federal service, and the fact that, with certain exceptions not relevant here, Commission employees have the same obligations and responsibilities and receive the same benefits as General Schedule employees.

7. There is nothing in 5 U.S.C. Section 5941, 26 U.S.C. Section 912, the relevant legislative history, or any other source to indicate that Congress, in enacting these provisions, intended to deny a Federal tax exemption for the COLA of workers who occupy the status and have the employment characteristics which pertain to Commission personnel.

8. If this Executive order is not issued, a significant inequity will result in that taxpayers who are similarly situated in all relevant respects will be treated differently under the Federal laws respecting income taxation.

9. Given the unique circumstances of this case, including the discretion granted to the Federal and State co-chairmen of the Commission to fix employees' salaries without reference to the Civil Service laws relating to the appointment and compensation of personnel and the

physical situs of the Commission in a locale where COLA is authorized for General Schedule employees, it is most unlikely that this order will set a precedent which transcends the facts which are operative here or will jeopardize the tax gathering efforts of the Internal Revenue Service.



THE WHITE HOUSE,
October 24, 1973.

[FR Doc.73-22988 Filed 10-25-73;11:21 am]

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 73-1565]

PART 526—LIMITATIONS ON RATE OF RETURN

Rates of Return

OCTOBER 17, 1973.

The Federal Home Loan Bank Board, after consulting with the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation, considers it advisable to amend Part 526 of the regulations for the Federal Home Loan Bank System (12 CFR Part 526) in order to revise the limitations on certain rates of return contained in § 526.5 (a) thereof. This action is taken in part pursuant to P.L. 93-123 which provides in substance that each of the three Federal financial supervisory agencies shall limit the rates of return paid by the institutions supervised by each such agency on time deposits of less than $100,000.

The following chart summarizes the new maximum rates of return on all savings accounts:

Type of account		Minimum balance	Maximum rate
1. Regular passbook account			5.25.
2. 90-day notice account			5.75.
3. Certificate accounts			
	Minimum maturity		
a.	90 days	None	5.75
b.	1 year	$1,000	6.50.
c.	30 months	$1,000	6.75.
d.	4 years	$1,000	7.50.
e.	30 days	$100,000	No maximum rate.

These revisions change the limitations on the rates of return established by Resolution No. 73-927 of July 6, 1973 (38 FR 18459), in the following respects: (1) the 30 day, no minimum balance, 5.25 percent certificate account is eliminated; (2) the 90-day, $1,000 minimum balance, 5.75 percent certificate account is revised by deleting the minimum balance requirement; (3) the 1-2 year, $1,000 minimum balance, 6.50 percent certificate account is revised to eliminate the 2 year maximum maturity limitation; (4) the 2 year, $5,000 minimum balance, 6.50 percent certificate account is eliminated; (5) the 30 month, $5,000 minimum balance, 6.75 percent certificate account is revised so that the minimum balance is $1,000; (6) the 4 year, no minimum balance, 6.75 percent certificate account is eliminated; and (7) the 4 year, $1,000 minimum balance, no maximum rate of return certificate account is revised so that the maximum rate of return is 7.50 percent.

In connection with prescribing the 7.50 percent maximum rate of return for 4 year, $1,000 certificate accounts, the Board revokes the percentage-of-total-savings-accounts limitations which had previously applied to such certificate accounts pursuant to § 526.5(a)(5).

As stated below, the amendments to § 526.5(a)—including the 7.50 percent interest rate ceiling on 4 year, $1,000 certificate accounts—are effective November 1, 1973. However, prior to November 1, 1973, member institutions should refrain from either offering or promoting new certificate accounts having terms which do not conform to the amendments to § 526(a) set forth herein.

By Resolution No. 73-1085, dated August 2, 1973, the Board proposed several amendments to Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) relating to the penalties imposed on early certificate account withdrawals. It was proposed to amend said Part 526 by revising § 526.6 thereof and by adding new §§ 526.6-1 and 526.7 for the purposes described therein. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on August 10, 1973 (38 FR 21651) and allowed until September 10, 1973, for interested persons to submit written comments. The Board has considered all relevant material presented by interested persons and otherwise available.

Section 526.6, captioned "Advertising of interest or dividends on savings accounts", is amended by redesignating paragraphs (e), (f), and (g) thereof as paragraphs (f), (g), and (h) respectively, and by adding a new paragraph (e) thereto. Revised new paragraph (e) requires that all advertisements (including radio and television advertisements) relating to interest or dividends paid on certificate accounts include clear and conspicuous notice that Federal regulation requires member institutions to impose a substantial interest penalty for a withdrawal from a certificate account before the end of the fixed or minimum term of such account. To satisfy the above described requirement, said new paragraph (e) suggests the use of the following notice provision, "A substantial interest penalty is required for early withdrawal". On October 3, 1973, the Board proposed a new § 526.9, which would impose certain penalties on member institutions for violations of Part 526, including § 526.6 (Resolution No. 73-1467; 38 FR 28081). When proposed new § 526.9 is finalized, violations of new paragraph (e) of § 526.6 will be penalized in the same manner as other violations of said § 526.6.

New § 526.6-1, captioned "Disclosure upon acceptance," requires a member institution to provide a certificate account customer with a written description of the early withdrawal penalty applicable to such account at the time the member institution accepts the account, except that an institution need not provide such a description in connection with the renewal of an existing certificate account. Said new § 526.6-1 differs from the proposed § 526.6-1(a) in three respects. First, such proposal required member institutions to furnish the above described disclosure before accepting a certificate account deposit. Second, the requirement in the proposal that this disclosure include arithmetic examples is deleted. The third difference is the exception for renewals of existing certificate accounts. As stated above, the Board has proposed a new § 526.9, which would impose certain penalties on violations of Part 526. The final version of proposed § 526.9 will also penalize violations of new § 526.6-1. Both revised new §§ 526.6(e) and 526.6-1 were adopted in conjunction with similar amendments by the Federal Reserve Board and the Federal Deposit Insurance Corporation. The Board has taken no final action on proposed new § 526.6-1(b), captioned "Notice before end of fixed or minimum term," which was not part of the Federal Reserve Board or the Federal Deposit Insurance Corporation amendments.

New § 526.7, which is unchanged from the proposal, imposes the early withdrawal penalties applicable to insured institutions on noninsured member institutions.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 526 of the Regulations for the Federal Home Loan Bank System by revising § 526.5(a) thereof and by adding § 526.7 thereto, as set forth below, effective November 1, 1973. The Board hereby further amends said Part 526 by revising § 526.6 thereof by redesignating paragraphs (e), (f), and (g) of such section as paragraphs (f), (g), and (h) respectively, and adding a new paragraph (e) to said section, and by adding a new § 526.6-1 to said Part 526, as set forth below, effective November 28, 1973.

Since affording notice and public procedure on the amendments to § 526.5(a) of said Part 526 would delay such amendments from becoming effective for a period of time and since it is in the public

interest that such amendments become effective without such delay, the Board hereby finds that notice and public procedure as to such amendments are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 554(b). Therefore, the usual notice and public procedure are not provided regarding these amendments. As stated above, the amendments to § 526.6 of Part 526 and the addition of new §§ 526.6–1 and 526.7 thereto were afforded notice and public procedure.

With respect to the amendments to § 526.5(a) of Part 526 and the addition of new § 526.7 thereto, the Board hereby finds that a 30-day delay in the effective date after the publication of said amendments in the FEDERAL REGISTER would be contrary to the public interest and said amendments shall therefore become effective as hereinbefore set forth. As stated above, the effective date of the amendments to § 526.6 of Part 526 and the addition of new § 526.6–1 thereto is delayed until November 28, 1973.

§ 526.5 Maximum rates of return payable on certificate accounts of less than $100,000.

(a) *Maximum rates.*—Except as otherwise provided in this section or in § 526.5–1;

(1) *Maximum rate of 5.75 percent.*—A member institution may pay a return at a rate not in excess of 5.75 percent per annum on any certificate account having a fixed or minimum term or qualifying period of not less than 90 days.

(2) *Maximum rate of 6.50 percent.*—A member institution may pay a return at a rate not in excess of 6.50 percent per annum on any certificate account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 1 year.

(3) *Maximum rate of 6.75 percent.*—A member institution may pay a return at a rate not in excess of 6.75 percent per annum on any certificate account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 30 months.

(4) *Maximum rate of 7.50 percent.*—A member institution may pay a return at a rate not in excess of 7.50 percent per annum on any certificate account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 4 years.

* * * * *

§ 526.6 Advertising of interest or dividends on savings accounts.

Every advertisement, announcement, or solicitation relating to the interest or dividends paid on savings accounts in member institutions shall be governed by the following rules:

* * * * *

(e) *Penalty for early withdrawals.*—Any advertisement, announcement, or solicitation relating to interest or dividends paid by a member institution on certificate accounts shall include clear and conspicuous notice that Federal regulations require member institutions to impose a substantial interest penalty for a withdrawal from a certificate account before the end of the fixed or minimum term or qualifying period of such account. Such notice may state that, "A substantial interest penalty is required for early withdrawal".

* * * * *

§ 526.6–1 Disclosure upon acceptance.

At the time a member institution accepts a certificate account deposit, such institution shall provide to the depositor a written description of the penalty imposed by such institution on a withdrawal from such certificate account before the end of the fixed or minimum term or qualifying period for such account. A member institution need not provide such a written statement in connection with the renewal of an existing certificate account.

§ 526.7 Penalty for early withdrawal.

With respect to each certificate account issued on or after November 1, 1973, each member institution which is not an insured institution (as defined in § 561.1 of this chapter) shall impose the following conditions on withdrawal from such an account before the expiration of its fixed or minimum term or qualifying period: (a) the account holder shall receive interest or dividends from the date of issuance of such account on the amount withdrawn at a rate not in excess of the rate then being paid on regular accounts; and (b) the account holder shall also pay a penalty in an amount not less than the lesser of (1) the interest or dividends at such rate for 90 days (3 months) on the amount withdrawn or (2) all interest or dividends at such rate (since issuance or renewal of the certificate account) on the amount withdrawn.

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended by Public Law 91–151, sec. 2(b), 83 Stat. 371; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425b, 1437. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.73–22821 Filed 10–25–73;8:45 am]

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 73–1566]

PART 545—OPERATIONS

Amendments Relating to Savings Accounts

OCTOBER 17, 1973

The Federal Home Loan Bank Board considers it advisable to amend §§ 545.1–4 and 545.3–1 of Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) in order to revise certain of the terms upon which Federal savings and loan associations may accept savings accounts. Accordingly, the Board hereby amends paragraph (c)(3) of said § 545.1–4 and paragraph (b)(3) of said § 545.3–1 to read as set forth below, effective November 1, 1973.

Paragraph (c)(3) of § 545.1–4 is revised by increasing from 30 days to 90 days the minimum permissible maturity for fixed-term savings deposits. Paragraph (b)(3) of § 545.3–1 is revised by increasing from 60 days to 90 days the minimum permissible maturity for variable rate certificate accounts.

Since affording notice and public procedure on the above amendments would delay such amendments from becoming effective for a period of time and since it is in the public interest that such amendments become effective without such delay, the Board hereby finds that notice and public procedure as to such amendments are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendments would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that such amendments shall become effective as hereinbefore set forth.

The text of §§ 545.1–4(c)(3) and 545.3–1(b)(3), as amended, is as follows:

§ 545.1–4 Other savings deposits.

* * * * *

(c) *Limitations.*—In accepting savings deposits under the authority contained in paragraph (a) of this section, no Federal association shall:

* * * * *

(3) Accept any fixed-term savings deposit for a term of less than 90 days or more than 10 years: *Provided*, That any savings deposit may provide for renewal, at the option of the association, for successive periods not exceeding 10 years for each renewal.

* * * * *

§ 545.3–1 Distribution of earnings at variable rates.

* * * * *

(b) *Eligibility requirements.* * * *

(3) *Accounts evidenced by certificates.*—A savings account which is evidenced by a certificate meeting the requirements of paragraph (c) of this section may receive earnings at a rate higher than the regular rate, but not in excess of the applicable maximum rate of return prescribed for certificate accounts in Part 526 of this chapter, if such account is maintained at not less than such minimum amount, for such continuous period of not less than 90 days, nor more than 10 years, commencing on the date of such certificate, as the association may determine. Such savings account may be evidenced by more than one certificate.

* * * * *

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

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.73–22822 Filed 10–25–73;8:45 am]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 73-1575]

PART 561—DEFINITIONS

PART 570—BOARD RULINGS

Service Corporation Subsidiaries of Insured Institutions; Correction

OCTOBER 19, 1973.

The Federal Home Loan Bank Board hereby corrects Resolution No. 73-1156, captioned "Amendments Relating to Service Corporation Subsidiaries of Insured Institutions", which amended Parts 561, 563, and 570 of the rules and regulations for Insurance of Accounts (12 CFR Parts 561, 563, and 570) published in the FEDERAL REGISTER of September 18, 1973, at 38 FR 26109-12 (FR Document No. 73-19802), as set forth below.

1. In the third paragraph of the preamble to the amendment, "§ 561.27" is redesignated "§ 561.28".

2. The first sentence of Part 1 of the amendment is changed by redesignating "§§ 561.24, 561.25, 561.26, and 561.27" to read "§§ 561.25, 561.26, 561.27, and 561.28".

Section "561.24 *Affiliate*" is redesignated "§ 561.25 *Affiliate*"; "§ 561.25 *Service corporation*" is redesignated "§ 561.26 *Service corporation*"; section "561.26 *Service corporation affiliate*" is redesignated "§ 561.27 *Service corporation affiliate*"; and "§ 561.27 *Controlling person*" is redesignated "§ 561.28 *Controlling person*".

Section "561.24 *Subordinated Debt Security*" remains in effect and is not affected by these changes.

3. In Part 4 of the amendment, paragraph 570.10(b) is changed by redesignating "§ 563.36(a)" to read "§ 563.37 (a)" in the two places where it appears therein.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.73-22820 Filed 10-25-73;8:45 am]

[No. 73-1572]

PART 563—OPERATIONS

Savings Accounts

OCTOBER 17, 1973.

The Federal Home Loan Bank Board considers it advisable to amend §§ 563.3-1 and 563.3-2 of Part 563 of the rules and regulations for Insurance of Accounts (12 CFR Part 563) in order to revise certain provisions regarding savings accounts accepted by institutions insured by the Federal Savings and Loan Insurance Corporation. Accordingly, the Board hereby amends paragraph (b)(4) of said § 563.3-1 and paragraph (b)(4) of said § 563.3-2 to read as set forth below, effective November 1, 1973.

Paragraph (b)(4) of § 563.3-1 and paragraph (b)(4) of § 563.3-2 are each revised in order to increase from 30 days to 90 days the minimum maturity for fixed-rate, fixed-term accounts and certificates evidencing other accounts. Paragraph (b)(4) of said § 563.3-2 is further revised by deleting the word "not" in order to clarify said paragraph (b)(4).

Since affording notice and public procedure on the above amendments would delay such amendments from becoming effective for a period of time and since it is in the public interest that such amendments become effective without such delay, the Board hereby finds that notice and public procedure as to such amendments are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendments would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that such amendments shall become effective as hereinbefore set forth.

The text of said §§ 563.3-1(b)(4) and 563.3-2(b)(4), as amended, is as follows:

§ 563.3-1 Fixed-rate, fixed-term accounts.

* * * * *

(b) *Limitations.*—In issuing certificates evidencing fixed-rate, fixed-term accounts pursuant to the approval contained in paragraph (a) of this section, no insured institution shall:

* * * * *

(4) Accept any fixed-rate, fixed-term account for a term of less than 90 days or more than 10 years: *Provided*, That any fixed rate, fixed-term account may provide for renewal at the option of the institution, for successive periods not exceeding 10 years for each renewal.

* * * * *

§ 563.3-2 Certificates evidencing other accounts.

* * * * *

(b) *Limitations.*—In issuing certificates pursuant to the approval contained in paragraph (a) of this section, no insured institution shall:

* * * * *

(4) Issue any certificate account with a time eligibility period of less than 90 days or more than 10 years; or

* * * * *

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.73-22823 Filed 10-25-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 12064; Amdts. 21-39; 36-2]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRCRAFT CERTIFICATION

Noise Standards for Newly Produced Airplanes of Older Type Designs

The purpose of these amendments is to require certain new production turbojet and transport category airplanes to comply with the noise standards of Part 36 of the Federal Aviation Regulations, irrespective of type certification date, as a condition for the issuance of certain standard airworthiness certificates. The primary basis for these amendments is § 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) as amended by the Noise Control Act of 1972 (P.L. 92-574).

These amendments are based on Notice 72-19, published in the FEDERAL REGISTER on July 25, 1972 (37 FR 14813). Interested persons have been afforded an opportunity to comment on the matters contained herein, and all relevant comments have been considered in the issuance of these amendments.

Pursuant to 49 U.S.C. 1431(b)(1), the Federal Aviation Administration has consulted with the Secretary of Transportation, concerning all matters contained herein, prior to the adoption of this amendment. Pursuant to that paragraph and section 8(b) of the guidelines of the Council on Environmental Quality concerning statements on proposed Federal actions affecting the environment, published in the Federal Register on April 23, 1971 (36 FR 7724), the Federal Aviation Administration has consulted with the Environmental Protection Agency and has submitted this amendment to that agency for review and comment.

Public comments received in response to Notice 72-19 concerned the following issues: The economic reasonableness, basic fairness, and cost effectiveness of the noise limits to be applied; the timing of the proposed amendments; the scope of the proposed regulation, relation to international certification concepts; use of the airworthiness certificate as the instrument of compliance; the details of noise measurement in Part 36; and compliance with section 102(2)(C) of the National Environmental Policy Act of 1969.

I. *Comments concerning the economic reasonableness, basic fairness, and cost effectiveness of the proposals.*—Numerous public comments were received concerning the economic reasonableness, basic fairness, and cost effectiveness of the proposed regulations. These comments, and the FAA's response thereto, are as follows:

1. The notice justified applying Part 36 noise limits to the production of new aircraft now, and deferring for further analysis the question of retrofit of operating aircraft. One reason stated for this approach was that the economic impacts of production line changes are less severe than the economic impacts of changes to operating aircraft. It was argued, in one comment, that the distinction between the economic aspects of production line aircraft modification and the economics of retrofit of operating aircraft is an invalid distinction, and that retrofit and production modification should not be separately accomplished but should both be done together, immediately. The FAA agrees that the total solution to the noise problem involves reduction of the noise of the fleet of operating aircraft (as well as noise restraints imposed during production). However, the FAA also believes that the economic implications of retrofitting fleet operating aircraft are sufficiently different from those of production line modification of currently produced aircraft to justify taking this incremental step now without waiting for fleetwide retrofit or replacement of older operating aircraft with newer types.

2. It was stated that the only benefit from the proposed regulation is halting of the rise in nuisance, that this rise is only slight, and that the public benefit therefore does not justify the cost. This comment neglects the critical complementary relationship between source noise reduction and land use management. The FAA believes that a major precondition of responsive local land use decisions around airports is Federal action to firmly contain, at predictable and defineable levels, the source noise of aircraft. This amendment takes a definite step in that direction by ensuring that all new production subsonic transport category and turbojet engine powered aircraft, like new aircraft types within those classes, come within the noise limits of Part 36. Whether or not this amendment, like Part 36 itself, will halt or reduce annoyance (in terms of how many people are how badly affected) will necessarily be closely related to the effectiveness of State and local initiatives in moving toward land use compatibility around airports based on the clear and definite source noise limitations of Part 36. The true public benefit of this amendment and of following efforts to reduce fleet noise levels thus depends, to an important extent, on the success or failure of the land use aspect of the airport noise problem. Considering the extreme importance of a firm source noise limit to local land use initiatives, the FAA believes that the costs to be borne by the aircraft industry to meet this amendment are reasonable and necessary even if the specific degree of public benefit to be actually derived from the needed corresponding land use controls cannot be guaranteed by this amendment until such land use controls are exercised.

3. It was stated that the regulation would create an inequity since operators of complying aircraft would be penalized with respect to both initial cost and increased operating cost, when compared with operators of noncomplying aircraft already in the fleet. The FAA believes that the cost differences between these two classes of operators are acceptable and are justified by the need to begin the process of controlling the noise of older type designs at the production phase. It is further believed that, contrary to this comment, the economic and other noise related pressures on operators of noncomplying aircraft will in fact make that class of aircraft the less desirable one for operators concerned with the long term impact of airport/community relations and for operators concerned with the fact that future rule making will ultimately eliminate the class of aircraft that do not comply with Part 36 noise limits.

4. It was argued that FAA should wait for the normal attrition of older aircraft and should encourage the evolution of truly beneficial new type designs; but should avoid the great cost and small benefit of modifying older type designs. It was also argued that the notice of proposed rulemaking was in error in stating that continued production of older aircraft without noise treatment delays the introduction of newer, quieter aircraft into the fleet. It was finally stated that most older aircraft types will be retired, regardless of rulemaking, by the end of the decade. In contrast to this, another comment stated that "the continued production of noisy, old-technology aircraft is an economic disincentive to investment in the newer, more environmentally compatible designs and, as such, should be discouraged." The FAA does not believe that waiting for the normal retirement of older aircraft is a viable or effective approach to controlling the noise generated by the current fleet of aircraft. Practicable means exist for taking incremental actions, such as this amendment, to contain the impact of new noise sources within the established limits of Part 36. As the notice stated, continued production of new aircraft without noise treatment counteracts the acoustic benefit available from the introduction of new technology aircraft. This is true regardless of the policies to be applied to older aircraft now in the fleet and is particularly relevant since the purchase of these new aircraft may represent decisions not to purchase a competitive new technology aircraft. To this extent, the FAA agrees that continued production of older aircraft is in fact an economic disincentive to investment in the newer types of aircraft.

5. It was argued that it is unfair to require aircraft at the low end of the weight scale to come down in noise to levels that are lower than are acceptable under Part 36 at the higher weights, since community annoyance is not related to weight. This argument ultimately leads to the conclusion that all aircraft noise levels should be permitted to be as high as those of the heaviest aircraft. Since weight is directly related to the propulsion requirements of an aircraft, and those requirements significantly affect the amount of quieting that can be accomplished, the purpose of the weight parameter in Part 36 is to ensure that all reasonable noise abatement technology is applied for each weight. It should also be pointed out that lighter aircraft may be operating in and out of close-in community noise environments associated with smaller airports and should accordingly receive all the noise abatement technology that can reasonably be applied to aircraft of their lesser weights regardless of whether that same degree of quieting is possible for heavier aircraft.

6. It was stated that it is unfair to require design changes in the latest production aircraft without requiring changes in operating procedures. The question of operational procedures is being studied by the FAA to determine which procedures would be most responsive to the particular needs of particular airport/community situations. Air traffic control procedures already employed include provisions for keeping traffic at higher altitudes where possible near noise sensitive areas, and for the use of preferential runways and traffic flow patterns that minimize noise impact to the extent possible. When further procedures are developed that are shown to bring significant benefits to the communities around airports, they will be employed. However, the FAA does not believe that it is inequitable to require source noise reductions during the period that operating procedures are being developed or modified as experience is gained in that regulatory area, particularly since the resulting aircraft modifications will increase the effectiveness of virtually any procedures selected later.

7. It was stated that the rule is not economically reasonable for business jets, and that, because of the relatively small number of new general aviation jet aircraft that are expected, the cost of the necessary development programs "would be substantial, and for all practical purposes uneconomic—" it was emphasized that the real economic impact of the regulation is in the engine and airplane research and development programs required to develop complying hardware. Another comment stated that effective research and development programs for small jets, such as the extensive programs for heavy aircraft that were federally funded, should also be federally funded, and that, without such Federal funding, the developmental costs of complying with the regulation would be impossible to absorb. The FAA recognizes that there has not been Federal funding of noise research, for smaller jet aircraft, to the extent that such funding has been provided for the larger aircraft. However, the present rulemaking has been determined to be reasonable and appropriate at this time, without Federal funding, because of the success of private industry initiatives. The manufacturers of business and corporate jet airplanes and jet engines have, without Federal funding, instituted developmental programs that have successfully resulted in the technological capability to produce airplanes that can be

shown to comply with Part 36 within the compliance periods specified in this amendment. Thus the costs of compliance with this amendment, with respect to the development of the requisite technological capability, have to a large extent already been incurred. These costs were incurred, wholly apart from regulatory pressures, to ensure the continued viability of business jet capital investments under increasingly severe environmental pressures affecting aircraft marketing. In summary, the FAA does not believe that issuance of this amendment creates research and development costs that require Federal financial support. However, it is recognized that future regulatory action may result in technological developments requiring a reassessment of the need for Federal research and development funding.

8. It was stated that the regulation should specifically exclude aircraft that are already sold or offered with a firm price option as of the rule adoption date because such aircraft represent commitments for which the manufacturer cannot recover additional new hardware costs. The FAA recognizes that any change in regulatory law that affects aircraft design and that is made effective anytime before the distant future may affect the relations between manufacturer and purchaser. Safety-related technical modifications and product replacement modifications are often accomplished on aircraft during production. The precise apportionment, between manufacturer and purchaser, of cost increases during production is properly arrived at as a matter for contract between buyer and seller. As a practical matter, some aircraft are sold years before delivery. Acceptance of this comment (e.g. by excluding aircraft that were "sold" or "offered with a firm price option" on the rule adoption date) could result in continued production of noncomplying aircraft for many years. Finally, a regulation whose effectivity was dependent upon proof of the status at law of a contract price would be virtually impossible to administer fairly and impartially. For these reasons, this comment cannot be accepted. For these reasons also, the FAA disagrees with another comment requesting exclusion of "all aircraft under contract or firm option as of October 1972."

9. It was urged that the FAA consider the probability of lost or cancelled aircraft sales in its determination of the economic reasonableness of the costs of complying with the regulation. While this probability is difficult to assess, the FAA is encouraged to note that a growing number of aircraft manufacturers and operators, reacting to the increasing importance of aircraft noise as a detriment to industry growth, have chosen to stress compliance with Part 36 as a significant competitive factor. The FAA believes that this reflects the development of long range changes in the response of aircraft marketing factors to the problems of community acceptance and airport noise, and that lack of compliance with Part 36 will eventually be more closely related to lost or cancelled aircraft sales than will the economic costs of complying with the regulation.

10. It was stated that it would be economically unreasonable to require that aircraft, that are modified during production to meet Part 36, also be modified again under a later retrofit requirement. This comment stated that issuance of this amendment should be accompanied by a guarantee against such "recurrent retrofit." The FAA agrees that, on any subsequent noise retrofit program, the combined economic impacts of that program and of other environmental regulations (such as aircraft emission requirements or previously issued noise requirements) may be considered in an overall determination of economic reasonableness. However, the FAA does not believe that it would be consistent with its overall environmental responsibilities to exclude aircraft from later reasonable environmental control regulations merely because earlier regulations have been complied with.

11. It was stated that the regulation should permit exceedances over the Part 36 noise limits in order to accommodate the necessary practice of intermixing engines or nacelles. Such intermixing occurs when engines or nacelles (which may have been produced earlier or produced as replacement components and might not incorporate the required acoustical design provisions) are installed, as quick change units, to minimize aircraft down-time. The result may thus be the replacement of one or more acoustically treated engines or nacelles with untreated components. The FAA understands the great importance of intermix to efficient fleet management. However, it is believed that any noise deterioration resulting from these normal intermix practices should occur within the Part 36 noise limits. This is essential to public confidence in the accuracy and meaning of the noise limits, set in Part 36, as descriptors of the actual noise reductions achievable by the airplane. The FAA believes that the manufacturers should reasonably be expected to ensure that their products have sufficient compliance margin under the Part 36 noise levels to permit their customers to engage in such a wide spread and common practice as engine nacelle intermix without exceeding the maximum noise limits prescribed for the airplane.

II. *Comments concerning the timing of the proposed regulations.*—Comments were received stating that the proposed regulation, while not reasonable as proposed, could be made reasonable by delaying the compliance dates. These specific comments, and the FAA responses thereto, are as follows:

1. It was stated that, in order for the requisite noise research and development to be accomplished for smaller jet aircraft, compliance with Part 36 should not be required for business jets before the "end of this decade." It was argued that this time lag would be needed if the history of acoustical research for large jets is any guide to the amount of research that would be needed for the smaller jet aircraft. The FAA disagrees with this comment. Extensive review of all material submitted with respect to the smaller jet aircraft (e.g., airplanes with maximum weights of 75,000 lbs. and less) indicates clearly that, with one possible exception, production quality hardware adequate to permit Part 36 to be achieved is either now available, or will be available for installation on production aircraft, before the date specified in this amendment (December 31, 1974). The one aircraft for which this evaluation is less clear is a business jet for which the required production quality hardware may not be available to be incorporated on a production basis until early or middle 1975. However, the FAA believes that, even for this aircraft, a maximum effort on the part of the manufacturer has a reasonable chance of meeting the compliance date in this amendment, and that the compliance date for the entire class of business jet aircraft should not be delayed in order to accommodate the potential problems of the one aircraft type. This amendment, therefore, specifies December 31, 1974, as the compliance date for all airplanes with maximum weights of 75,000 lbs. and less. If the manufacturer of the aircraft in question believes that he can demonstrate that this deadline should not, in the public interest, be applied to his aircraft, he may petition for an exemption that must, under the Noise Control Act of 1972, be reviewed by the FAA in consultation with the U.S. Environmental Protection Agency. No suggestion is made here with respect to the result of such a review.

2. It was argued that a delayed compliance date of mid-1978 should be chosen to permit introduction of the requisite design technology into the "normal cycle for development of new engine airframe combinations." The problems of procurement of long-lead hardware (such as forgings), the time problems involved in providing production engineering drawings, designing and building production tooling, and assembly of the new hardware on the aircraft were stressed as reasons for delaying implementation of the rule. After thorough review of all of these factors, the FAA believes that the compliance dates in this amendment provide adequate time for compliance and that no further extension of time is justified. It should be pointed out that these dates involve a relaxation from those proposed in the Notice, which contemplated compliance by July 1, 1973, or July 1, 1974, depending on aircraft weight.

3. It was argued in docketed comments that the result of the Notice, if issued as a final rule, would be the virtual shutting down of production of one airplane type. However, information obtained since receipt of the docketed comments indicates that this early assessment was overly conservative and that the business jet in question will in fact be able to be produced, in compliance with this amendment, on or before December 31, 1974.

4. It was stated that the regulation should be effective for JT8D powered airplanes first flown on or after January 1,

1974, and for JT3D powered airplanes first flown on or after January 1, 1975. After review of all material submitted with respect to the power plants that are employed in the larger jet aircraft, the FAA believes that December 1, 1973, is a reasonable date for all engines except the JT3D and that December 31, 1974, is a reasonable date for aircraft powered by that engine.

5. It was stated that the regulation should not become effective, for the smaller jet aircraft, less than 30 months after its issuance. It was argued that such a delay is necessary "to accomplish the required design changes and configuration compromises in the vehicle for compliance with both noise and engine emission standards." The FAA agrees that the combined economic effects of noise and emission standards should be carefully watched, and has been working closely with the U.S. Environmental Protection Agency to ensure that there is a coordinated review of the economic impacts of the aircraft noise regulatory program of the FAA and the economic impacts of the aircraft emission control program of EPA (which will be implemented through the issuance of regulations by the FAA). In addition, EPA, in close cooperation with the FAA, is coordinating its own aircraft noise control program (under the Noise Control Act of 1972) with its aircraft emission control program to ensure that noise standards recommended to the FAA by EPA (under the Noise Control Act of 1972) take into account the combined economic impact of noise and emission controls. FAA is confident, in view of this close and continuing coordination, that compliance with this amendment, on or before the dates specified herein, will not be rendered infeasible or unreasonable by emission regulations affecting the same aircraft.

6. It was stated that one type of air carrier aircraft for which Part 36 capability has already been achieved should be immediately subject to the regulation. Considering that, under this amendment, the required hardware must be procured to be installed across the board on all production versions of this airplane, the FAA believes that the time between issuance of this amendment and the prescribed compliance date (December 1, 1973) does not represent an unreasonable delay.

7. It was stated that, from a cost effectiveness point of view, for aircraft for which substantial quieting below Part 36 noise levels is possible by reengining, the costs of an interim (but acoustically less effective) noise reduction to Part 36 noise levels should not be imposed now, and an additional grace period of two years, justified by the greater benefits to be obtained from reengining, should be allowed. The argument that a near term, available environmental improvement should not be implemented if a greater benefit is expected at a later time has some merit in cases in which compliance with the earlier requirement would clearly prevent the later benefit from being achieved in a reasonable manner. The FAA does not believe that this is the case in this instance and that, if more effective noise reductions become possible through the development of new engines, nothing in this amendment prevents those engines from being developed and installed in an economically sound manner. Therefore, the FAA does not believe that, in this case, the benefits to be obtained from this amendment should be deferred until new engines are developed.

8. Comments concerning the international aspects of the compliance dates in this amendment are addressed in section IV below.

III. *Comments concerning the scope of the proposed regulation.*—The following comments were received concerning the applicability and scope of the proposed regulation:

1. It was stated that the regulation should not be limited to transport category and turbojet engine powered airplanes, but should also apply to all other aircraft types, including rotorcraft. The FAA intends to address the noise problem of other classes of aircraft and to develop regulations that achieve the maximum reasonable noise reduction for each class. Part 36, as currently effective, has not been determined to accomplish this purpose for classes of aircraft other than transport category and turbojet engine powered airplanes. This amendment, therefore, continues the limitation of current Part 36 to those airplanes.

2. It was stated that the regulation should be broadened to include military aircraft. This comment cannot be accepted in view of the limitation of Title VI of the Federal Aviation Act of 1958 (including the noise abatement authority in § 611, as amended by the Noise Control Act of 1972) to "civil aircraft," which term excludes "public aircraft." Military aircraft are "public aircraft."

3. It was stated that newly produced aircraft of older type designs should automatically be covered by later changes to Part 36 and that the limitation of the Part 36 reference to Part 36 "as effective on December 1, 1969" shows a "misguided preoccupation with the economics of noise reduction." In view of the clear command in sec. 611 of the Federal Aviation Act to consider economic reasonableness, the effect of this recommendation would be to limit the severity of new Part 36 amendments to levels that are "economically reasonable" (however that term is defined) for older type designs. The FAA prefers to issue, for new type designs, regulations that take advantage of all acoustical design potentialities that are available at the early design stage without its environmental objectives being unnecessarily handicapped by the need to consider the impact of such aggressive rulemaking on older type designs. When it is determined that the technology is available to bring new production versions of older type designs into conformity with later amendments of Part 36, such action is not precluded by this amendment, and can be accomplished by later rulemaking.

4. It was stated that the regulation should stop all growth in air traffic. In support of this comment it was argued that it makes little sense to decrease the operational noise of individual aircraft and then allow more such aircraft to operate. The FAA believes that the major problems of aircraft noise can be resolved, consistent with the increasing public need for air transportation, by an aggressive combination of source noise reduction and airport land use compatibility planning and land use plan execution. In view of the clear public need for use of the navigable airspace to move persons and property in increasing quantities, the FAA believes that environmentally responsive growth, not termination of growth, is the necessary and appropriate objective.

5. It was stated that the basic standards in Part 36 should be lowered for all aircraft type certificated after January 1, 1980. The question of reduction of Part 36 noise levels for new type certificates is now being considered and will be the subject of a separate regulatory proposal.

6. It was stated that July 1, 1974, should be designated "total retrofit compliance day" for all operational aircraft not already covered by the regulations. The FAA agrees that retrofit of currently operating aircraft (as opposed to assembly of newly produced aircraft in compliance with Part 36) is an important aspect of reduction of total fleet noise levels. This problem is being addressed as a separate regulatory issue. With respect to the specific date mentioned in the comment, however, the FAA has not yet determined that the required technology and hardware will be available to reasonably support a total retrofit program effective on July 1, 1974.

IV. *Comments concerning the international aspects of the proposed regulation.*—The international aspects of the proposed regulation were raised in the following comments:

1. It was stated that the Notice unnecessarily departed from traditional policy and practice by providing, for import aircraft, that compliance would be shown if the country in which the aircraft was manufactured certifies (and the Administrator finds) that Part 36 is complied with. It was argued that, for noise type certification, the FAA, in § 21.29, permits the country of manufacture to certify that the aircraft meets either the U.S. regulation or else meets the requirements of the manufacturing country plus any other requirements prescribed by the Administrator to provide noise levels no greater than those prescribed in the U.S. regulation. The FAA agrees that there is no valid reason for this not to apply as well to airworthiness certification findings related to Part 36. This change is, therefore, made as requested [see § 21.183(e), last sentence].

2. It was stated that the regulation should not apply to aircraft sold to foreign operators, and should not apply to "the issuance of export certificates of airworthiness by the FAA whether or not the foreign government imposes noise rules of its own." This amendment, like the Notice, is limited to aircraft for

which U.S. standard airworthiness certificates are applied for under § 21.183 and thus does not apply unless such application is made under that section.

3. It was stated that the compliance date should be the same as that specified, in ICAO documents, for compliance with the Noise Standards of ICAO Annex 16, by newly produced aircraft not already covered by that Annex. That date is January 1, 1976. In support of this comment, it was stated that the recommended ICAO date was agreed to in the U.S. position paper, and that "the enforcement of noise standards which, by their technical content or methods of application, are at variance with the standards defined and adopted by ICAO constitutes, in short, an impediment to the harmonious development of air transport and to related trade." It was also stated that a uniform international scheme is essential to any concept of economic reasonableness, and that "the presence of different standards for each country would have serious consequences for international aviation as a service to the world community."

With respect to the U.S. position supporting the recommended ICAO date, this support was based on an assessment of the worldwide impact of the proposed extension of Annex 16 to new production aircraft of all nationalities. This required a more conservative timing conclusion than is consistent with the domestic need to achieve the earliest reasonable compliance by aircraft being issued standard U.S. airworthiness certificates. The FAA does not imply by its choice of dates and other requirements could be considered equally applicable for other countries. With respect to the value of worldwide uniformity in noise regulatory actions, however, it is agreed that such is desirable where it does not conflict with clearly determined domestic environmental imperatives. In the case of this amendment, it is believed that the dates specified herein are essential to respond adequately to the clear intent of the Congress, expressed in the Noise Control Act of 1972 and its legislative history that an aggressive and early attack on the problem of aircraft noise be accomplished as soon as it can be justified in the light of economic and technological considerations.

V. *Comments concerning use of the airworthiness certificate as the instrument of compliance.*—Unlike Part 36, which, until this action, regulated type certification only, this amendment prescribes compliance with noise standards as a condition to the issuance of standard airworthiness certificates. The following comments were received on this aspect of the regulation.

1. It was stated that "the status of airworthiness certificates should not be clouded by noise requirements," and that the proper approach is "amendment of the type certificate." In support of this statement, the comment referred to the handling of the Boeing 747 under Part 36, which provided for the placing of a time limit on the original type certificate of that airplane. Since this amendment applies only to aircraft for which a type certificate has been issued in the past, the result of this comment, if accepted, would be action by the FAA, retroactively, to terminate the legal effect of previously issued type certificates. This would be a fundamentally different action from that involved in the case of the Boeing 747, which case involved only the prospective act of issuing a type certificate with a time limitation. The FAA believes that it is far less damaging to the interests of type certificate holders to attach conditions to the issuance of subsequently issued airworthiness certificates than to retroactively cloud the type certificate itself with a subsequently issued time limitation on that document.

2. It was stated that shifting the noise compliance process to individual airworthiness certificates is a "profound change" and "greatly diminishes the value of the type certificate." For reasons mentioned above, the FAA believes that use of the airworthiness certification process as the compliance device will have much less effect on the value of the type certificate than would retroactive amendment of that certificate itself. As stated in the Notice, the airworthiness certificate is a particularly appropriate means of ensuring that individual newly produced aircraft of previously type certificated designs incorporate specific acoustical design features prior to operation. The value of that certificate for this purpose lies in the fact that the airworthiness certificate is individually issued to each aircraft after production, and is, therefore, useful as a means of distinguishing (by date of issuance) those individual aircraft within a production run that require noise compliance.

VI. *Comments concerning the details of noise measurement.*—The Notice proposed to apply, to new production aircraft, the requirements of current Part 36 without substantive change. The following comments recommended that changes be made in details of Part 36 as applicable to newly produced aircraft:

1. It was stated that the takeoff noise measurement procedure in current Part 36 is unduly restrictive, and that, rather than require an actual takeoff and a specified climb profile, the regulation should permit determination of noise as a function of power setting during a series of level flyovers or partial climbs. It was stated that such a procedure would be superior to Part 36 in that it would eliminate the need for finding an airport for the noise test, while at the same time providing noise data that are as accurate as those derived under the Part 36 procedure. The FAA does not believe that such an amendment of Part 36 is capable to ensuring accurate noise data for all aircraft covered by Part 36. However, if, for a particular aircraft type, it can be determined that a procedure equivalent to any specific takeoff procedure in Appendix A should be approved, that Appendix allows such approval to be made.

2. It was stated that Part 36 should be amended to increase the tradeoff allowance (under which procedure a noise level exceedance at one measurement point can be approved if it is offset or "traded off" by showing noise levels less than the prescribed limit at other measurement points). The FAA does not believe that it is technically or economically unreasonable to apply the current tradeoff provisions to newly produced aircraft or older type designs. This requested relaxation in the rule is, therefore, not believed to be justified.

3. It was stated that the sideline measurement point should be standardized at .35 N.M. rather than preserved as .35 N.M. for 4-engine airplanes and .25 N.M. for airplanes with less than 4 engines. The effect of this request would be to relax the noise limits for the latter class of airplanes. Such a relaxation is not justified by the reason that was submitted in support of this request (namely, that annoyance is not a function of the number of engines), and is not supported by other technical and economic data.

4. It was stated that the minimum reduced power climb gradient specified in Part 36 should be 4 percent (not the currently prescribed 4 percent or the gradient resulting from level flight thrust with one engine inoperative, whichever gradient is higher). The reason for this request is that for many aircraft a straight 4 percent gradient requirement would result in less thrust, which would be quieter. This comment appears to miss one essential purpose of Part 36, which is to not only set noise limits but require that these limits be met with the airplane developing substantial power in order to force the development of real acoustical design improvements rather than permit compliance through quiet piloting techniques. The effect of accepting this comment would be to relax the severity of the acoustical design provisions that must be incorporated in the airplane in order to meet the specified noise limits. This is not viewed as justified.

VII. *Comment concerning compliance with Section 102(2)(C) of the National Environmental Policy Act of 1969.*—It was stated that issuance of this amendment should be delayed for the preparation and circulation of draft and final environmental impact statements under Section 102(2)(C) and related guidelines and orders. Under those guidelines and orders, when a major Federal action "significantly" affects the quality of the human environment, preparation and circulation of draft and final environmental impact statements are required. This comment takes the position that the impact statement requirements apply in this case. After review of the potential impact of this amendment, the FAA believes that the amount of noise reductions involved and the limited number of affected aircraft require the conclusion that this amendment will not cause a "significant" reduction in the community impact of overall fleet noise. This amendment in no way precludes or limits other environmentally protective regulatory actions that the FAA may take, and does not involve environmental

impacts other than the required noise reduction. For all of these reasons, a negative declaration outlining these considerations in detail has been prepared for this action, in accordance with applicable requirements.

Two editorial changes are made to the language proposed in the Notice. The title of Part 36 is revised to refer specifically to type and airworthiness certification rather than refer only to the general term "certification." Also, the language in proposed § 21.183(d) was unduly complex and has been simplified. No substantive change results.

(Sections 313(a), 601, 603, 611, Federal Aviation Act of 1958 (49 U.S.C. 1354(a)), 1421, 1423, 1431 (as amended by the Noise Control Act of 1972 (P.L. 92-574)), sections 2(b)(2), 6(c), Department of Transportation Act (49 U.S.C. 1651(b)(2), 1655(c)), Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), Executive Order 11514, Protection and Enhancement of Environmental Quality, March 5, 1970.)

In consideration of the foregoing, Parts 21 and 36 of the Federal Aviation Regulations are amended, effective December 1, 1973, as follows:

A. Part 21 of the Federal Aviation Regulations is amended by adding a new § 21.183(e) to read as follows:

§ 21.183 Issue of standard airworthiness certificates for normal, utility, acrobatic, and transport category aircraft.

* * * * *

(e) *Noise requirements.*—For subsonic transport category airplanes and subsonic turbojet powered airplanes that have not had any flight time before the dates specified in § 36.1(d), and notwithstanding the other provisions of this section, no standard airworthiness certificate is originally issued under this section unless the Administrator finds that the type design complies with the noise requirements in § 36.1(d) in addition to the applicable airworthiness requirements in this section. For import aircraft, compliance with this paragraph is shown if the country in which the aircraft was manufactured certifies, and the Administrator finds, that § 36.1(d) (or the applicable aircraft noise requirements of the country in which the aircraft was manufactured and any other requirements the Administrator may prescribe to provide noise levels no greater than those provided by compliance with § 36.1(d)) and paragraph (c) of this section are complied with.

B. Part 36 of the Federal Aviation Regulations is amended as follows:

1. The title is amended to read "Part 36—Noise Standards: Aircraft Type and Airworthiness Certification."

2. Section 36.1(a) is amended and new § 36.1(d) is added, all to read as follows:

§ 36.1 General.

(a) This part prescribes noise standards for the issue of type certificates, and changes to those certificates, and for the issue of certain standard category airworthiness certificates, for subsonic transport category airplanes, and for subsonic turbojet powered airplanes regardless of category.

* * * * *

(d) Each person who applies for the original issue of Standard Airworthiness Certificates under § 21.183, must, regardless of date of application, show compliance with this Part (including Appendix C), as effective on December 1, 1969, for airplanes that have not had any flight time before—

(1) December 1, 1973, for airplanes with maximum weights greater than 75,000 lbs., except for airplanes that are powered by Pratt and Whitney Turbo Wasp JT3D series engines;

(2) December 31, 1974, for airplanes with maximum weights greater than 75,000 lbs. and that are powered by Pratt and Whitney Turbo Wasp JT3D series engines; and

(3) December 31, 1974, for airplanes with maximum weights of 75,000 lbs. and less.

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

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.73-22755 Filed 10-25-73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-828, Amdt. 5]

PART 261—FILING OF AGREEMENTS

Oral and Informal Contracts and Agreements

Correction

In FR Doc. 73-22253, appearing at page 28928 in the issue for Thursday, October 18, 1973, in the first paragraph, the date "November 7, 1973" should read "October 12, 1973".

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 9—PROCEDURES FOR A VOLUNTARY LABELING PROGRAM FOR HOUSEHOLD APPLIANCES AND EQUIPMENT TO EFFECT ENERGY CONSERVATION

By notice published in the FEDERAL REGISTER of June 5, 1973 (38 FR 14756), the Department of Commerce announced its intention of issuing its Procedures for a Voluntary Labeling Program for Major Household Appliances to Effect Energy Conservation. Proposed procedures were published in the same FEDERAL REGISTER notice, and interested parties were afforded an opportunity to file written comments or suggestions.

Comments in response to the above referenced publication of the proposed procedures were received from thirty sources and were reviewed and analyzed within the Department. A detailed analysis of the comments received has been prepared, and a copy of this analysis is filed in the Central Reference and Records Inspection Facility, Room 7043, Commerce Building, 14th Street between Constitution Avenue and E Street NW., Washington, D.C. 20230, and is available for public inspection at that location. Most comments received recognized the need for a program to effect energy conservation in the use of household appliances and equipment and expressed their general willingness to support the proposed program. In cooperation with the Council on Environmental Quality and the Environmental Protection Agency, appropriate modifications in the text of the proposed procedures have been made based on the review and analysis of the comments received. Based on these actions, the final procedures, as set forth below, are hereby issued as Part 9 of Title 15, Code of Federal Regulations.

Effective date.—These procedures shall become effective on October 26, 1973.

Issued October 24, 1973.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

Sec.

9.0 Purpose.
9.1 Goal of program.
9.2 Definitions.
9.3 Appliances and equipment included in program.
9.4 Development of voluntary energy conservation specifications.
9.5 Participation of manufacturers.
9.6 Termination of participation.
9.7 Department of Commerce energy conservation mark.
9.8 Amendment or revision of voluntary energy conservation specifications.
9.9 Consumer education.
9.10 Coordination with State and local programs.
9.11 Annual report.

AUTHORITY.—Sec. 2, 31 Stat. 1449, as amended, sec. 1, 64 Stat. 371; 15 U.S.C. 272, Reorganization Plan No. 3 of 1946, Part VI; Message from the President of the United States Concerning Energy Resources, April 18, 1973 (119 Cong. Rec. H2886).

§ 9.0 Purpose.

The purpose of this part is to establish procedures relating to the Department's voluntary labeling program for household appliances and equipment to promote and effect energy conservation.

§ 9.1 Goal of program.

(a) This program was initiated in response to the direction of President Nixon in his 1973 Energy Message that the Department of Commerce in cooperation with the Council on Environmental Quality and the Environmental Protection Agency develop a voluntary labeling program which would apply to energy-consuming home appliances.

(b) The goal of this program is to encourage manufacturers to provide consumers, at the point of sale, with information on the energy consumption and energy efficiency of household appliances and equipment. Such information, presented in a uniform manner readily understandable to consumers, would be displayed on Labels attached to or otherwise provided with the appliances or

equipment. The Labels will include a system intended to make it possible for consumers to compare by cost or otherwise the energy consumption and energy efficiency characteristics when purchasing household appliances and equipment and to select those that can effect savings in energy consumption.

§ 9.2 Definitions.

(a) The term "Secretary" means the Secretary of Commerce.

(b) The term "manufacturer" means any person engaged in the manufacturing or assembling of new appliances or equipment or in the importing of such products for resale.

(c) The term "energy consumption" means the energy resources used by appliances or equipment under conditions of use approximating actual operating conditions insofar as practical as determined through test procedures contained or identified in a final Voluntary Energy Conservation Specification published under § 9.4(e).

(d) The term "energy efficiency" means the energy use of appliances or equipment relative to their output of services, as determined through test procedures contained or identified in a final Voluntary Energy Conservation Specification published under § 9.4(e).

(e) The term "consumer" means the first person who purchases a new appliance or item of equipment for purposes other than resale.

(f) The term "class of appliance or equipment" means a group of appliances or equipment whose functions or features are similar, and whose functional output covers a range that may be of interest to consumers.

(g) The term "Specification" means a Voluntary Energy Conservation Specification developed under § 9.4.

(h) The term "Label" means printed matter affixed to or otherwise provided with appliances or equipment and meeting all the requirements called for in a Voluntary Energy Conservation Specification published under § 9.4(e).

§ 9.3 Appliances and equipment included in program.

The appliances and equipment included in this program are room and central air conditioners, household refrigerators, home freezers, clothes washers, dishwashers, clothes dryers, kitchen ranges and ovens, water heaters, and comfort heating equipment. Additional appliances and equipment may be included in the program by the Secretary pursuant to rule making procedures as set out in 5 U.S.C. 553. Individual units of appliances and equipment manufactured for export are not included in this program.

§ 9.4 Development of voluntary energy conservation specifications.

(a) The Secretary in cooperation with appropriate Federal agencies and in cooperation with affected manufacturers, distributors, retailers, consumers, environmentalists, and other interested parties shall develop proposed Specifications for the specific classes of appliances and equipment covered under § 9.3.

(b) Each Specification shall as a minimum include:

(1) A description of the class of appliance or equipment covered by the Specification, listing the distribution of energy efficiencies for that class of appliance or equipment.

(2) Listings or descriptions of test methods to be used in measuring the energy consumption and/or energy efficiency characteristics of the class of appliance or equipment.

(3) A prototype Label and directions for displaying the Label on or with appliances or equipment of that class. The Label shall be prominent, readable, and visible and shall include information that will assist the consumer in comparing by cost or otherwise the energy consumption and/or energy efficiency characteristics of a particular appliance or item of equipment with all others in its class. The Label shall also include the Department of Commerce Energy Conservation Mark specified in § 9.7.

(4) Conditions for the participation of manufacturers in the program.

(c) The test methods listed or described in the Specification pursuant to § 9.4(b)(ii) shall be those described in existing nationally-recognized voluntary standards where such methods are appropriate. Where appropriate test methods do not so exist, they will be developed by the Department of Commerce in cooperation with interested parties.

(d) The Secretary upon development of a proposed Specification shall publish in the FEDERAL REGISTER a notice giving the complete text of the proposed Specification, and any other pertinent information, and inviting any interested person to submit written comments on the proposed Specification within 30 days after its publication in the FEDERAL REGISTER, unless another time limit is provided by the Secretary. Interested persons wanting to express their views in an informal hearing may do so if, within 15 days after the proposed Specification is published in the FEDERAL REGISTER, they request the Secretary to hold a hearing. Such informal hearings shall be held so as to give all interested persons opportunity for the oral presentation of data, views, or arguments in addition to the opportunity to make written submissions. Notice of such hearings shall be published in the FEDERAL REGISTER. A transcript shall be kept of any oral presentations.

(e) The Secretary, after consideration of all written and oral comments and other materials received in accordance with paragraph (d) of this section, shall publish in the FEDERAL REGISTER within 30 days after the final date for receipt of comments, or as soon as practicable thereafter, a notice either:

(1) Giving the complete text of a final Specification, including conditions of use, and stating that any manufacturer of appliances or equipment in the class concerned desiring voluntarily to use the Label and Energy Conservation Mark with such appliances or equipment must advise the Department of Commerce; or

(2) Stating that the proposed Specification will be further developed before final publication; or

(3) Withdrawing the proposed Specification from further consideration.

§ 9.5 Participation of manufacturers.

(a) Manufacturers desiring to participate in this program will so notify the Department of Commerce. The notification will identify the particular Specification to be used and the manufacturer's model numbers for the products to be labeled. The notification will also state that the manufacturer will abide by all conditions contained in the Specification and will desist from using the Label and Energy Conservation Mark if requested by the Department of Commerce under the provisions of § 9.6.

(b) The conditions for participation will be set out in the Specification and will include, but not be limited to, the following:

(1) Prior to the use of a Label the manufacturer will make or have made the measurements to obtain the information required for inclusion on the Label and, if requested, will forward within 30 days such measurement data to the Department of Commerce. Such measurement data will be kept on file by the manufacturer or his agent for two years after that model of appliance or equipment is no longer manufactured unless otherwise provided in the Specification. The use of independent test laboratories or national certification programs available to any manufacturer is acceptable for the purposes of this program.

(2) The manufacturer will describe the test results on the Label as prescribed in the Specification.

(3) The manufacturer will display or arrange to display, in accordance with the appropriate Specification, the Label on or with each individual unit of appliance or equipment within the subject class and with the same brand name manufactured by him except for units exported from the U.S. All models with the same brand name that fall within the class must be included in the program unless they are for export only.

(4) The manufacturer agrees at his expense to comply with any reasonable request of the Department of Commerce to have appliances or equipment manufactured by him tested to determine that testing has been done according to the relevant Specification.

(5) Manufacturers may reproduce the Department of Commerce Labels and Energy Conservation Mark in advertising provided that the entire Label, complete with all information required to be displayed at the point of retail sale, is shown legibly.

§ 9.6 Termination of participation.

(a) The Department of Commerce upon finding that a manufacturer is not complying with the conditions of partici-

pation set out in these procedures or in a Specification may terminate upon 30 days notice the manufacturer's participation in the program: *Provided*, That the manufacturer shall first be given an opportunity to show cause why the participation should not be terminated. Upon receipt of a notice of termination, a manufacturer may request within 30 days a hearing under the provisions of 5 U.S.C. 558.

(b) A manufacturer may at any time terminate his participation and responsibilities under this program with regard to a specific class of products by giving written notice to the Secretary that he has discontinued use of the Label and Energy Conservation Mark for all appliances or equipment within that class.

§ 9.7 Department of Commerce energy conservation mark.

The Department of Commerce shall develop an Energy Conservation Mark which shall be registered in the U.S. Patent Office under 15 U.S.C. 1054 for use on each Label described in a Specification.

§ 9.8 Amendment or revision of voluntary energy conservation specifications.

The Secretary may by order amend or revise any Specification published under § 9.4. The procedure applicable to the establishment of a Specification under § 9.4 shall be followed in amending or revising such Specification. Such amendment or revision shall not apply to appliances or equipment manufactured prior to the effective date of the amendment or revision.

§ 9.9 Consumer education.

The Department of Commerce, in close cooperation and coordination with interested Government agencies, appropriate industry trade associations and industry members, and interested consumers and environmentalists shall carry out a program to educate consumers relative to the significance of the labeling program. Some elements of this program shall also be directed toward informing retailers and other interested groups about the program.

§ 9.10 Coordination with State and local programs.

The Department of Commerce will establish and maintain an active program of communication with appropriate state and local government offices and agencies and will furnish and make available information and assistance that will promote to the greatest practicable extent uniformity in state, local, and Federal programs for the labeling of household appliances and equipment to effect energy conservation.

§ 9.11 Annual report.

The Secretary will prepare an annual report of activities under the program, including an evaluation of the program and a list of participating manufacturers and classes of appliances and equipment.

[FR Doc.73-22882 Filed 10-25-73;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY EXCHANGE AUTHORITY (INCLUDING COMMODITY EXCHANGE COMMISSION), DEPARTMENT OF AGRICULTURE

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Registration Fees; Form of Remittance

On August 2, 1973, notice was published in the FEDERAL REGISTER (38 FR 20626) of a proposed revision to § 1.11 of the general regulations promulgated under the Commodity Exchange Act, as amended. All parties that would be affected by the promulgation of this proposal were requested to submit written data, facts, or arguments to the Commodity Exchange Authority, by September 30, 1973, for consideration in connection with such proposal.

The purpose of this proposal is to provide for a schedule of registration fees which is designed to recover the increased cost of registering floor brokers and futures commission merchants under the Commodity Exchange Act and thus conform to the opinion of Congress, as expressed in the Independent Offices Appropriation Act of 1952 which related the view that Federal agencies should recover the cost of special services (including registration) to the fullest extent possible. Registration fees collected for fiscal year 1973 amounted to approximately $21,800 for futures commission merchants and $20,700 for floor brokers; whereas, costs for the same period are estimated to be approximately $70,000 and $29,000, respectively.

The revised regulation would have the registration fees for futures commission merchants increased from $30 to $200; for branch offices and agents from $5 to $6; and for floor brokers from $15 to $20.

The last previous increase in registration fees with respect to futures commission merchants was effective with registration for calendar year 1959. The only previous increase in registration fees in the case of floor brokers was effective with registration for calendar year 1956.

Therefore, pursuant to the authority vested in the Secretary of Agriculture under the Commodity Exchange Act, as amended, and in consideration that no opposing comment was received concerning the proposed revision, and in further consideration of all other relevant facts and information available, the general regulations promulgated under such Act are amended to include § 1.11 in the following revised form:

§ 1.11 Registration fees; form of remittance.

Each application for registration, or renewal thereof, as futures commission merchant shall be accompanied by a fee of $200, plus a fee of $6 for each domestic branch office and for each correspondent or agent, operating within the United States, authorized to solicit or accept orders for the pruchase or sale of any commodity for future delivery on behalf of the applicant. Each application for registration, or renewal thereof, as floor broker, shall be accompanied by a fee of $20. Fees shall be remitted by money order, bank draft, or check, payable to the Commodity Exchange Authority, USDA. Applications and fees shall be forwarded to the nearest regional office of the Commodity Exchange Authority, United States Department of Agriculture.

(69 Stat. 535 (7 U.S.C. § 12a(4)); 37 FR 28464-5.)

Effective date.—The foregoing amendment shall become effective for the period of registration which commences January 1, 1974.

Issued October 19, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-22860 Filed 10-25-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Nutrition Labeling; Extension of Effective Date

In the FEDERAL REGISTER of March 14, 1973 (38 FR 6951), the Commissioner of Food and Drugs promulgated a new regulation, § 1.17 (21 CFR 1.17). The regulation requires that all labeling ordered after December 31, 1973, must comply with its provisions. In paragraph 34 of the preamble of the March 14, 1973, order, the Commissioner gave notice that temporary extensions from the December 31, 1973, compliance date will be considered, upon a showing of good cause, based upon an ongoing program of nutritional research.

An extension from the December 31, 1973, compliance date was requested for the labeling of milk, lowfat milk, skim milk, evaporated milk, evaporated skim milk, nonfat dry milk, cottage cheese, lowfat cottage cheese, and cottage cheese dry curd. Notice was given in the FEDERAL REGISTER of August 24, 1973 (38 FR 22791), that the requested extension until December 31, 1974, was granted.

The Milk Industry Foundation, 910 Seventeenth St. NW., Washington, D.C. 20006, has requested that a similar extension be granted for yogurt. Studies have been initiated to obtain nutritional data on which to base nutrition labeling for yogurt, but these studies will not be completed in time to permit manufacturers to develop labels to meet the December 31, 1973, effective date. The Commissioner has reviewed this program and fully supports it.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040-

1043, as amended, 1047, 1055; 21 U.S.C. 321, 343, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner hereby gives notice that the requested extension is granted until December 31, 1974, at which time all labeling used for products shipped in interstate commerce shall comply with § 1.17.

Dated October 18, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-22749 Filed 10-25-73;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 45—MARGARINE, OLEOMARGARINE

Order Amending Margarine Standard and Revoking Standard for Liquid Margarine; Extension of Effective Date

In the FEDERAL REGISTER of September 14, 1973 (38 FR 25671), the Commissioner of Food and Drugs published a final order amending Part 45 by revising § 45.1, the standards for margarine, oleomargarine. The publication specified that all labeling ordered after December 31, 1973, must comply with the revised regulations.

The National Association of Margarine Manufacturers, Suite 1202, 1725 K St. NW., Washington, D.C. 20026, has requested an extension from the December 31, 1973, compliance date to provide for additional time in which to accomplish the required label revisions.

In view of the relatively short period of time between the publication of the order and the December 31, 1973 date, the Commissioner concludes that the requested extension is justified.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 1055, as amended by 70 Stat. 919; 21 U.S.C. 341, 371(e)) and under authority delegated to the Commissioner (21 CFR 2.120), the effective date paragraph of the order is revised to read as follows:

Effective date.—Unless stayed by the filing of proper objections, compliance with this order, which shall include any labeling changes required, may begin on or before October 15, 1973, and all labeling ordered after March 16, 1974, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with these regulations.

(Secs. 401, 701(e), 52 Stat. 1046, 1055, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371(e).)

Dated October 18, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-22751 Filed 10-25-73;8:45 am]

PART 80—DEFINITIONS AND STANDARDS OF IDENTITY FOR FOOD FOR SPECIAL DIETARY USES

PART 125—LABEL STATEMENTS CONCERNING DIETARY PROPERTIES OF FOOD PURPORTING TO BE OR REPRESENTED FOR SPECIAL DIETARY USES

Stay of Effective Date for Ordering of New Labeling

In the FEDERAL REGISTER of August 2, 1973, the Commissioner of Food and Drugs published revised rules governing label statements concerning dietary properties of food for special dietary uses, §§ 125.1, 125.2, and 125.3 (21 CFR 125.1, 125.2, and 125.3), and a new definition and standard of identity for dietary supplements of vitamins and minerals, § 80.1 (21 CFR 80.1) (38 FR 20708, 20730). It was provided at that time that all labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, must comply with the new regulations.

Several petitions for review of these regulations have now been filed in the United States Courts of Appeals, and it has become apparent that judicial review will not be completed before the effective date for the ordering of new labeling. Consequently, several applications for a stay of the regulations have been received from persons who have filed petitions for review.

The Commissioner of Food and Drugs concludes that a stay of the December 31, 1973, effective date for the ordering of new labeling, pending the outcome of judicial review, would be fair and reasonable, and such a stay is hereby granted. The stay is applicable to all persons and not just to those seeking judicial review of the regulations.

The Commissioner will not at this time grant a stay of the December 31, 1974, effective date for the use of new labeling, because it would be premature to do so. It is expected that judicial review of these regulations will be completed before the second effective date, and that this date will not be stayed.

Therefore pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Secs. 201(n), 401, 403(a) and (j), 701(a) and (e), 52 Stat. 1046, 1048, 1055, and 1056 as amended by 70 Stat. 919; 21 U.S.C. 321(n), 341, 343(a) and (j), 371 (a) and (e)) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That the effective date of December 31, 1973 for §§ 80.1, 125.1, 125.2 and 125.3, as published in the FEDERAL REGISTER dated August 2, 1973, be stayed.

(Secs. 201(n), 401, 403(a) and (j), 701(a) and (e), 52 Stat. 1046, 1048, 1055–1056, as amended by 70 Stat. 919; 21 U.S.C. 321(n), 341, 343(a) and (j), 371(a) and (e).)

Dated October 19, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-22750 Filed 10-25-73;8:45 am]

PART 121—FOOD ADDITIVES

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

DIISONONYL ADIPATE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 3B2901) filed by Esso Research and Engineering Co., Post Office Box 45, Linden, NJ 07036, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the additional safe use of diisononyl adipate as a plasticizer in vinyl chloride homo- and/or copolymer films for food contact use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2511(b) is amended by adding two new limitations in the "Limitations" column for Diisononyl adipate in the "List of Substances" to read as follows:

§ 121.2511 **Plasticizers in polymeric substances.**

* * * * * *

(b) List of substances:

	Limitations
* * *	* * *
Diisononyl adipate.	For use only: 1. * * * 2. * * * 3. At levels not exceeding 35 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty, nonalcoholic foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.002 inch. 4. At levels not exceeding 35 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 121.2526(c), with fatty, nonalcoholic foods having a fat and oil content not exceeding a total of 40 percent by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.002 inch.
* * *	* * *

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before November 26, 1973, filed with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall

show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date.—This order shall be effective on October 26, 1973.

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

Dated October 17, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-22752 Filed 10-25-73;8:45 am]

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

PART 135d—NEW ANIMAL DRUGS FOR INTRAMAMMARY USE

Procaine Penicillin G

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (65-081V) filed by G. C. Hanford Manufacturing Co., P.O. Box 1055, Syracuse, NY 13201, proposing the safe and effective use of procaine penicillin G in oil for intramammary use in lactating cattle. The supplemental application is approved.

To facilitate referencing, the firm is being assigned a code number and placed in the list of firms in § 135.501(c) (21 CFR 135.501).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135d are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code number 098 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
098	G. C. Hanford Manufacturing Co. P.O. Box 1055 Syracuse, NY 13201

2. Part 135d is amended by adding a new section as follows:

§ 135d.14 Procaine penicillin G in oil veterinary.

(a) *Specifications.*—Each 10 milliliters of the drug contains 100,000 units of procaine penicillin G. The drug complies with the requirements of § 146a.45 of this chapter.

(b) *Sponsor.*—See code No. 098 in § 135.501(c) of this chapter.

(c) *Conditions of use.*—(1) It is used for the treatment of bovine mastitis in lactating cattle (or cows) only.

(2) 10 milliliters of the drug is administered by intramammary infusion in each infected quarter. Treatment may be repeated at 12-hour intervals up to a total of 3 doses, as indicated by the clinical response.

(3) Milk that has been taken from animals during treatment and for 60 hours (5 milkings) after the latest treatment must not be used for food.

(4) Animals should not be slaughtered for food during treatment or within 3 days after the last treatment.

Effective date.—This order shall be effective October 26, 1973.

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

Dated October 18, 1973.

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

[FR Doc.73-22748 Filed 10-25-73;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Sterile Procaine Penicillin G With Aluminum Stearate Suspension, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (65-130V) filed by E. R. Squibb & Sons, Georges Road, New Brunswick, NJ 08902, providing revised labeling for the safe and effective use of sterile procaine penicillin G with aluminum stearate suspension, veterinary, for the treatment of dogs, cats, and horses. The supplemental application is approved.

The drug is subject to batch certification under the provisions of section 512(n) of the Federal Food, Drug, and Cosmetic Act. Accordingly Part 146a is amended to provide that the drug, under its approved labeling, shall be dispensed on a prescription basis.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347 and 350-351; 21 U.S.C. 360b(i) and (n)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135b and 146a are amended as follows:

1. Part 135b is amended by adding the following new section:

§ 135b.96 Sterile procaine penicillin G with aluminum stearate suspension, veterinary.

(a) *Specifications.*—Sterile procaine penicillin G with aluminum stearate suspension, veterinary, conforms to the standards of identity, strength, quality, and purity prescribed by § 146a.45 of this chapter. Each milliliter contains 300,000 units of penicillin activity in sesame oil gelled with 2 percent aluminum monosterate.

(b) *Sponsor.*—See code No. 035 in § 135.501(c) of this chapter.

(c) *Conditions of use.*—(1) It is used as an intramuscular injection in the treatment of infections caused by penicillin-susceptible organisms such as Streptococci, Staphylococci, and Corynebacteria.

(2) It is administered to dogs and cats at 10,000 units per pound of body weight once daily and to horses at 3,000 units per pound of body weight once daily.

(3) The label and labeling shall bear, in addition to the other information required by the act, a statement that the drug is not for use in food-producing animals and a statement that Federal law stricts this drug to use by or on the order of a licensed veterinarian.

2. Part 146a is amended by revising § 146a.45(c)(2)(i) to read as follows:

§ 146a.45 Procaine penicillin G in oil.

* * * * *

(c) * * *

(2) * * *

(i) If it does not contain adrenocorticotropic hormone, it shall comply with paragraph (c)(1) of this section, except in lieu of the statement "Caution: Federal law prohibits dispensing without prescription" each package shall include adequate directions and warnings for the veterinary use of the drug by the laity in all cases except those in which the veterinary prescription statement is required by regulations under Part 135b. In those cases, the veterinary presciption statement shall comply with the requirements prescribed by § 1.106(c) of this chapter. If it is intended for udder instillation in cattle it shall be exempt from the requirements of § 1.106(b)(2)(v) of this chapter.

* * * * *

Effective date.—This order shall be effective October 26, 1973.

(Sec. 512(i) and (n), 82 Stat. 347, 350-351; 21 U.S.C. 360b(i) and (n).)

Dated October 18, 1973.

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

[FR Doc.73-22754 Filed 10-25-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-235]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
California	Alameda	Fremont, City of	I 06 001 1364 12 through I 06 001 1364 22	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012, and 1407 Market St., San Francisco, Calif. 94103.	Office of Director of Public Works, City Government Bldg., Fremont Civic Center, Fremont, Calif. 94538.	Jan. 29, 1971. Emergency. Nov. 9, 1973. Regular.
Do	do	Hayward, City of	I 06 001 1560 10 through I 06 001 1560 29	....do	Office of the City Clerk, City Center Bldg., Tenth Floor, 22300 Foothill Blvd., Hayward, Calif. 94541.	Jan. 29, 1971. Emergency. Nov. 2, 1973. Regular.
Do	Marin	San Anselmo, City of.				Oct. 24, 1973. Emergency.
Florida	Broward	Cooper City, City of.				Oct. 18, 1973. Emergency.
Massachusetts	Norfolk	Westwood, Town of.	I 25 021 1451 01 through I 25 021 1451 03	Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. 02202.	Town Hall, Office of Town Engineer, 580 High St., Westwood, Mass. 02090.	Jan. 14, 1972. Emergency. Nov. 2, 1973. Regular.
Michigan	Manistee	Filer, Township of.				Oct. 24, 1973. Emergency.
Do	Allegan	Ganges, Town of				Do.
North Carolina	Catawba	Unincorporated areas.				Do.
Pennsylvania	York	New Freedom, Borough of.				Do.
Do	do	West York, Borough of.				Do.
Do	Allegheny	Ross, Township of.				Do.
Do	Jefferson	Punxsutawney, Borough of.				Do.
Texas	Johnson and Tarrant.	Burleson, City of.	I 48 251 1030 01 through I 48 251 1030 06	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	City Manager, City of Burleson, 141 West Renfro, Burleson, Tex. 76028.	Dec. 17, 1971. Emergency. Nov. 2, 1973. Regular.
Virginia	Giles	Unincorporated areas.				Oct. 24, 1973. Emergency.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued October 17, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-22675 Filed 10-25-73;8:45 am]

[Docket No. FI-237]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Connecticut	Middlesex	Middlefield, Town of.	----------	----------	----------	Oct. 25, 1973, Emergency.
Do.	New Haven	New Haven, City of.	----------	----------	----------	Do.
New York	Livingston	Ossian, Township of.	----------	----------	----------	Do.
North Carolina	Carteret	Pine Knoll Shores, Town of.	----------	----------	----------	Do.
Pennsylvania	Elk	St. Mary's, Borough of.	----------	----------	----------	Do.
South Carolina	Berkeley	Hanahan, City of.	----------	----------	----------	Do.
Washington	Spokane	Spokane, City of.	----------	----------	----------	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued October 17, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-22673 Filed 10-25-73;8:45 am]

[Docket No. FI-236]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding, a purpose which is accomplished pursuant to statute by denying subsidized flood insurance to structures thereafter built within such areas. The practice of issuing proposed identifications for comment or of delaying effective dates would tend to frustrate this purpose by permitting imprudent or unscrupulous builders to start construction within such hazardous areas before the official identification became final, thus increasing the communities' aggregate exposure to loss of life and property and the agency's financial exposure to flood losses, both of which are contrary to the statutory purposes of the program. Accordingly, the Department is not providing for public comment in issuing this amendment and it will become effective upon publication in the FEDERAL REGISTER. Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*	*
Arkansas	Conway	Morrilton, City of.	H 05 029 2710 01 through H 05 029 2710 04	Division of Soil and Water Resources, State Department of Commerce, 1920 West Capitol Ave., Little Rock, Ark. 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City Hall, Morrilton, Ark. 72110.	Nov. 2, 1973.
Do.	Marion	Yellville, City of.	H 05 089 4270 01	----do----------	Mayor, City Hall, Yellville, Ark. 72687.	Do.
Do.	Polk	Mena, City of.	H 05 113 2630 01 through H 05 113 2630 03	----do----------	Mayor, City Hall, Mena, Ark. 71953.	Do.
Do.	Pulaski	Little Rock, City of.	H 05 119 2320 01 through H 05 119 2320 04	----do----------	City Hall, Markham and Broadway, Little Rock, Ark. 72201.	Do.
Do.	----do----------	North Little Rock, City of.	H 05 119 2880 01 through H 05 119 2880 09	----do----------	Planning Commission, City Hall, City of North Little Rock, North Little Rock, Ark. 72114.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Alameda	Fremont, City of	H 06 001 1364 12 through H 06 001 1364 22	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012, and 1407 Market St., San Francisco, Calif. 94103.	Office of Director of Public Works, City Government Bldg., Fremont Civic Center, Fremont, Calif. 94538.	Nov. 9, 1973.
Do	do	Hayward, City of	H 06 001 1560 10 through H 06 001 1560 29	do	Office of the City Clerk, City Center Bldg., Tenth Floor, 22300 Foothill Blvd., Hayward, Calif. 94541.	Nov. 2, 1973.
Do	Yuba	Marysville, City of	H 06 115 2100 01 H 06 115 2100 02	do	City Hall, 526 C St., Marysville, Calif. 95901.	Do.
Colorado	Boulder	Broomfield, City of	H 08 013 0253 01 H 08 013 0253 02	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	City Manager, No. 8 Garden Office Center, Broomfield, Colorado 80020.	Do.
Florida	Broward	Coral Springs, City of	H 12 009 0455 01 H 12 009 0455 02	Department of Community Affairs, 2571 Executive Center Circle East, Howard Bldg., Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	City of Coral Springs, 9429 West Sample Rd., Coral Springs, Fla. 33065.	Do.
Idaho	Canyon	Middleton, Town of	H 16 027 1080 01 H 16 027 1080 02	Department of Water Administration, State House, Annex 2, Boise, Idaho 83707. Idaho Department of Insurance, Room 206, Statehouse, Boise, Idaho 83707.	Mayor, City Hall, Middleton, Idaho 83644.	Do.
Illinois	Cook	Elk Grove, Village of	H 17 031 2719 01 through H 17 031 2719 06	Department of Local Government Affairs, 309 West Washington St., Chicago, Ill. 60606. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	Village Clerk, 901 Wellington Ave., Elk Grove Village, Ill. 60007.	Do.
Do	do	Franklin Park, Village of	H 17 031 3190 01 H 17 031 3190 02	do	Village Clerk's Office, Municipal Bldg., Franklin Park, Ill. 60131.	Do.
Do	do	Glencoe, Village of	H 17 031 3410 01 H 17 031 3410 02	do	Office of the Village Director of Public Works, Village Hall, 675 Village Court, Glencoe, Ill. 60022.	Do.
Do	Lake	Libertyville, Village of	H 17 097 4820 01 through H 17 097 4820 04	do	Municipal Bldg., 200 East Cook Ave., Libertyville, Ill. 60048.	Do.
Do	Stephenson	Freeport, City of	H 17 177 3220 01 through H 17 177 3220 05	do	City Hall, City of Freeport, Freeport, Ill. 61032.	Do.
Indiana	Warrick	Newburgh, Town of	H 18 173 3430 01 H 18 173 3430 02	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Newburgh Town Hall, Newburgh, Ind. 47630.	Do.
Louisiana	Tangipahoa Parish	Kentwood, Town of	H 22 105 1200 01 H 22 105 1200 02	State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Mayor, Town of Kentwood, Kentwood, La. 70444.	Do.
Do	Vermilion Parish	Kaplan, City of	H 22 113 1180 01	do	Mayor, City Hall, Kaplan, La. 70548	Do.
Massachusetts	Norfolk	Westwood, Town of	H 25 021 1451 01 through H 25 021 1451 03	Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. 02202.	Town Hall, Office of Town Engineer, 580 High St., Westwood, Mass. 02090.	Do.
Michigan	Kent	Kentwood, City of	H 26 081 2553 01 through H 26 081 2553 07	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 48913.	City of Kentwood Office, 1661 44th St. SE., Kentwood, Mich. 49508.	Do.
Do	Wayne	Redford, Township of	H 26 163 4165 01 through H 26 163 4165 05	do	Township Hall, 1545 Beech-Daly Rd., Detroit, Mich. 48239.	Do.
Do	do	Rockwood, City of	H 26 163 4270 01 through H 26 163 4270 03	do	City of Rockwood, 3240 Font St., Rockwood, Mich. 48173.	Do.
Minnesota	Benton and Stearns	Sartell, Village of	H 27 009 6420 01 H 27 009 6420 02	Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210, State Office Bldg., St. Paul, Minn. 55101.	Mayor, Village Hall, Sartell, Minn. 56377.	Do.
Do	Brown	New Ulm, City of	H 27 015 5190 01 through H 27 015 5190 05	do	Mayor, City Hall, 100 North Broadway, New Ulm, Minn. 56073.	Do.
Do	Carlton	Scanlon, Village of	H 27 017 6460 01	do	Mayor, Village of Scanlon, Cloquet, Minn. 55720.	Do.
Do	Hennepin	Champlin, Village of	H 27 053 1150 01 through H 27 053 1150 05	do	Champlin Village Office, 512 Highway 52, Champlin, 55316.	Do.
Do	LeSueur	LeSueur, City of	H 27 079 4150 01 through H 27 079 4150 03	do	Mayor, City Hall, LeSueur, Minn. 56058.	Do.
Do	Lyon	Marshall, City of	H 27 083 4570 01 through H 27 083 4570 03	do	City Engineer's Office, Municipal Bldg., 344 West Main St., Marshall, Minn. 56258.	Do.
Missouri	St. Louis	Sunset Hills, City of	H 29 189 7665 01 through H 29 189 7665 06	Water Resources Board, P.O. Box 271, Jefferson City, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	City of Sunset Hills, City Engineer's Office, Room 1, 10875 Sunset Hills Plaza, Sunset Hills, Mo. 63127.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
New Jersey	Warren	White, Township of.	H 34 041 3654 01 through H 34 041 3654 09	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Township Clerk, Township of White, Belvidere, N.J. 07823.	Do.
North Carolina	Cumberland	Fayetteville, City of.	H 37 051 1670 01 through H 37 051 1670 09	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Office of the City Clerk, City of Fayetteville, Fayetteville, N.C. 28301.	Do.
Ohio	Clermont	Chilo, Village of...	H 39 025 1585 01..	Ohio Department of Natural Resources, Ohio Departments Bldg., Columbus, Ohio 43215. Ohio Insurance Department, 115 East Rich St., Columbus, Ohio 43215.	Mayor, Village of Chilo, Chilo, Ohio 45112.	Do.
Do	Franklin	Westerville, City of.	H 39 049 8730 01 through H 39 049 8730 03	....do	Director of Public Service, 21 South State, Westerville, Ohio 43081.	Do.
Do	Greene	Bellbrook, Village of.	H 39 057 0590 01 through H 39 057 0590 04	....do	Zoning Inspector, Village of Bellbrook, Bellbrook, Ohio 45305.	Do.
Do	Huron	Monroeville, Village of.	H 39 077 5240 01	....do	Mayor, Municipal Bldg., Monroeville, Ohio 44847.	Do.
Do	Lake	Painesville, City of.	H 39 085 6320 01	....do	City of Painesville, 7 Richmond St., Painesville, Ohio 44077.	Do.
Do	Medina	Brunswick, City of.	H 39 103 1085 02	....do	Safety-Service Director, City of Brunswick, Box 216, Brunswick, Ohio 44212.	Do.
			H 39 103 1085 01 through H 39 103 1085 05			
Oregon	Umatilla	Athena, City of.	H 41 059 0090 01...	Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St. NE., Salem, Oreg. 97310.	Mayor, Athena, Oreg. 97813	Do.
Pennsylvania	Allegheny	Harrison, Township of.	H 42 003 3506 01 through H 42 003 3506 03	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Harrison Township Municipal Bldg., Park Ave. and Springhill Rd., Natrona Heights, Pa. 15065.	Do.
Do	Dauphin	Lykens, Borough of.	H 42 043 4630 01 H 42 043 4630 02	....do	Lykens Borough, Municipal Bldg., 559 South Second St., Lykens, Pa. 17048.	Do.
South Dakota	Butte	Belle Fourche, City of.	H 46 019 0210 01 H 46 019 0210 02	South Dakota Planning Agency, State Capitol Bldg., Pierre, S. Dak. 57501. South Dakota Department of Insurance, Insurance Bldg., Pierre, S. Dak. 57501.	City of Belle Fourche, Municipal Bldg., c/o City Auditor, Belle Fourche, S. Dak. 57717.	Do.
Do	Fall River	Hot Springs, City of.	H 46 047 1360 01 H 46 047 1360 02	....do	Hot Springs City Hall, 303 North River, Hot Springs, S. Dak. 57747.	Do.
Tennesse	Anderson	Clinton, Town of	H 47 001 0440 01 though	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville Tenn., 37219.	Mayor, Town of Clinton, Clinton, Tenn. 37716.	Do.
			H 47 001 0440 07	Tennessee Department of Insurance, 114 State Office Bldg., Nashville, Tenn. 37219.		
Texas	Johnson and Tarrant.	Burleson, City of.	H 48 251 1030 01 through H 48 251 1030 06	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	City Manager, City of Burleson, 141 West Renfro, Burleson, Tex. 76028.	Do.
Washington	Clark and Cowlitz.	Woodland, Town of.	H 53 015 2570 01	Department of Ecology, Olympia, Wash. 98501. Washington Insurance Department, Insurance Bldg., Olympia, Wash. 98501.	Woodland City Hall, 100 Davidson Ave., Woodland, Wash. 98674.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued October 17, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-22674 Filed 10-25-73;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 543–73]

MANAGEMENT OF THE DEPARTMENT OF JUSTICE

Miscellaneous Amendments

This order makes certain changes in the structure and organizational relationships within the Department of Justice. Its purpose is to improve the management of the Department.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Chapter I of Title 28, Code of Federal Regulations is amended as follows:

1. Section 0.1 of Subpart A of Part O is revised to read as follows:

§ 0.1 Organizational units.

The Department of Justice shall consist of the following principal organizational units:

(a) Office of the Attorney General, which shall include the following organizations with Department-wide staff and program responsibility:

The Immediate Office of the Attorney General
The Immediate Office of the Deputy Attorney General
Office of the Solicitor General
Office of Legal Counsel
Office of Legislative Affairs
Office of Management and Finance
Office of the Associate Attorney General
Office of Public Information
Office of Executive Personnel
Executive Secretariat
Office of Criminal Justice
Watergate Special Prosecution Force

(b) The Legal Activities, which shall include the following:

Antitrust Division
Civil Division
Civil Rights Division
Criminal Division
Land and Natural Resources Division
Tax Division
United States Attorneys
United States Marshals Service
Community Relations Service
Board of Immigation Appeals
Board of Parole
Office of the Pardon Attorney
Office of Legal Administration

(c) The Bureaus, which shall include the following:

Federal Bureau of Investigation
Law Enforcement Assistance Administration
Immigration and Naturalization Service
Drug Enforcement Administration
Bureau of Prisons and Federal Prison Industries, Inc.

2. Sections 0.6 and 0.7 of Subpart B are revised to read as follows:

§ 0.6 Associate Attorney General.

The Associate Attorney General established in the Office of the Attorney General shall:

(a) Advise in the formulation of Department policies and programs and in the development of ways and means of effectuating them.

(b) Coordinate the selection, appointment and development of executive personnel, including Presidentially appointed officers and personnel in General Schedule grades GS–16 through GS–18, or equivalent pay levels.

(c) Consult with the Deputy Attorney General on the preparation, for the consideration of the Attorney General, of recommendations for Presidential appointments to judicial positions.

(d) Supervise the operations and activities of the Office of Public Information, the Office of Executive Personnel, and the Executive Secretariat.

(e) Coordinate Departmental liaison with the White House staff and the Executive Office of the President.

(f) Perform such other duties and functions as may be specially assigned from time to time by the Attorney General.

§ 0.7 Office of Public Information.

The Office of Public Information, established in the Office of the Attorney General under the general supervision of the Associate Attorney General, is headed by a Director of Public Information who shall:

(a) Handle matters pertaining to relations with the public generally.

(b) Disseminate information to the press, the radio and television services, the public, members of Congress, officials of Government, schools, colleges, and civic organizations.

(c) Coordinate the relations of the Department of Justice with news media.

(d) Serve as a central agency for information relating to the work and activities of all agencies of the Department.

(e) Prepare public statements and news releases.

(f) Coordinate Departmental publications.

(g) Serve as the point of contact for requests from the public for access to the Department's records under 5 U.S.C. 552 (Freedom of Information Act).

§ 0.10 [Revoked]

3. Section 0.10, relating to the Fiscal Review Committee, is revoked.

§§ 0.11–0.12 [Redesignated]

4. Sections 0.8 and 0.9 are renumbered §§ 0.11 and 0.12 respectively; and the following new §§ 0.8, 0.9, and 0.10 are added:

§ 0.8 Office of Executive Personnel.

The Office of Executive Personnel, established in the Office of the Attorney General under the general supervision of the Associate Attorney General, is headed by a Director who shall:

(a) Implement executive personnel policy and standards promulgated by the Assistant Attorney General for Administration.

(b) Assess the effectiveness of executive manpower utilization.

(c) Determine future requirements for executive manpower and develop plans for meeting the requirements.

(d) Control position allocations throughout the Department of General Schedule grades GS–16 through GS–18, or equivalent pay levels.

(e) Provide advice on personnel appointments to positions filled by the President with the advice and consent of the Senate.

(f) Develop, in consultation with the Assistant Attorney General for Administration, executive development policies and programs for the Department.

§ 0.9 Executive Secretariat.

The Executive Secretariat, established in the Office of the Attorney General under the general supervision of the Associate Attorney General, is headed by an Executive Secretary who shall:

(a) Provide for the coordination of all decision papers, the effective dissemination of policy, and the central control of the action assignment process, and the efficient dissemination of information throughout the Department.

(b) Coordinate the Department's response to requests for production or disclosure of information under 5 U.S.C. 552(a). (See Part 16(A) of this Chapter.)

(c) Perform such other duties and functions as may be specially assigned from time to time by the Attorney General.

§ 0.10 Office of Criminal Justice.

The Office of Criminal Justice, established to provide an overview of problems in the criminal justice system, shall initiate, implement and evaluate proposals:

(a) To improve the effectiveness and the fairness of crime control and criminal justice administration; and

(b) To promote consistency and coordination in the handling of accused and convicted offenders by law enforcement, court, and correctional agencies in the Federal and District of Columbia systems.

5. Section 0.15 of Subpart C is revised to read as follows:

§ 0.15 Deputy Attorney General.

(a) The Deputy Attorney General is authorized to exercise all the power and authority of the Attorney General specified in § 0.5 of Subpart B of this part, unless any such power or authority is required by law to be exercised by the Attorney General personally or has been specifically delegated to another Department official.

(b) The Deputy Attorney General shall act as Attorney General and perform all the duties of the Office of Attorney General in case of a vacancy in that office or in case of the absence or disability of the Attorney General and shall:

(1) Supervise, direct, and administer the Department's Legal Activities, including the litigating divisions, United States Attorneys, United States Marshals Service, Community Relations Service, Board of Immigration Appeals, Board of Parole, and the Office of the Pardon Attorney.

(2) Assist the Attorney General in the development of broad Department program policy.

(3) Furnish administrative support, through the Office of Legal Administration, to the Legal Activities except in those areas where the U.S. Marshals Service has been given authority to operate and maintain its own administrative management support programs.

(4) Coordinate and control the Department's reaction to civil disturbances.

(5) Provide staff services, in consultation with the Associate Attorney General, relating to the selection and appointment of Federal judges, U.S. Attorneys, and U.S. Marshals.

(6) Perform such other duties and functions as may be specially assigned from time to time by the Attorney General.

6. A new § 0.17 is added to Subpart C, to read as follows:

§ 0.17 Office of Legal Administration.

The Office of Legal Administration, established under the supervision and direction of the Deputy Attorney General, shall provide all direct administrative support services to the Department's Legal Activities, except where independent administrative authority has been delegated to the Director, U.S. Marshals Service, and provide limited administrative support services to the Office of Attorney General. These services shall include the following:

(a) Planning, directing, and coordinating the personnel management program of the Legal Activities; providing personnel services including employment and staffing, employee relations, and classification, and including the following specific matters:

(1) The employment, separation, and general administration of attorneys and other employees of the Legal Activties in General Schedule grades GS–15 and below, or equivalent pay levels;

(2) The appointment of Assistant U.S. Attorneys and other attorneys to assist U.S. Attorneys when the public interest so requires, and fixing their salaries;

(3) The administration of the Attorney General's recruitment program for Honor Law Graduates.

(b) Formulating policies and plans for efficient administrative management and organization of the Legal Activities. Developing and coordinating all management studies and reports on the operations of the Legal Activities.

(c) Planning, justifying, and compiling the annual and supplemental budget estimates of the Legal Activities.

(d) Planning, directing, and executing the accounting operations for the Legal Activities.

(e) Providing information systems analysis, design, computer programming, and systems implementation services for the Legal Activities consistent with Departmental information systems plans, policies, and procedures.

(f) Implementing and administering management programs within the Legal Activities for the creation, organization, maintenance, use, and disposition of Federal records, and providing mail and messenger service.

(g) Implementing and administering programs within the Legal Activities for procurement, personal property, and supply, motor vehicle and space management.

(h) Operating and maintaining the Department Library.

(i) Routing and controlling correspondence, maintaining indices of legal cases and matters, replying to correspondence not assignable to a division, safeguarding confidential information, attesting to the correctness of records, and related matters.

(j) Accepting service of summons, complaints, or other papers, as a representative of the Attorney General, under the Federal Rules of Civil and Criminal Procedure or in any suit within the purview of subsection (a) of section 208 of the Department of Justice Appropriation Act, 1953 (66 Stat. 560; 43 U.S. 666(a)).

(k) Making the certificates required in connection with the payment of expenses of collecting evidence: *Provided*, That each such certificate shall be approved by the Attorney General.

(l) Determining the amounts of bonds required of U.S. Marshals (28 U.S.C. 564).

(m) Designating a highway mileage guide containing a shortline nationwide table of distances for use in determining mileage payable to witnesses (28 U.S.C. 1821).

(n) Authorizing payment of extraordinary expenses incurred by ministerial officers of the United States in executing acts of Congress (28 U.S.C. 1929).

(o) Representing the Attorney General with the Secretary of State in arranging for reimbursement by foreign governments of expenses incurred in extradition cases, and certifying to the Secretary the amounts to be paid to the United States as reimbursement (18 U.S.C. 3195).

(p) Such other functions as may be specifically assigned by the Deputy Attorney General or pursuant to the reorganization of the Department's Administrative Division.

§ 0.18 [Revoked]

7. Section 0.18 is revoked.

8. Section 0.20 of Subpart D, relating to the Office of the Solicitor General, is amended by adding the following new paragraph (e) at the end thereof:

§ 0.20 General functions.

* * * * *

(e) Assist the Attorney General in the development of broad Department program policy.

§ 0.25 [Amended]

9. Paragraph (c) of § 0.25 of Subpart E, relating to the Office of Legal Counsel, is revoked.

§ 0.27 [Amended]

10. Paragraph (d) of § 0.27 of Subpart E–1, relating to the Office of Legislative Affairs, is amended by deleting "or the Deputy Attorney General."

11. The preambular paragraph of section 0.30 of Subpart F is revised to read as follows:

§ 0.30 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Director of the Community Relations Service:

* * * * *

12. Subpart G is revised to read as follows:

Subpart G—Office of the Pardon Attorney

§ 0.35 Applications for clemency.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Pardon Attorney shall have charge of the receipt, investigation, and disposition of applications to the President for pardon and other forms of Executive clemency, and shall perform any other duties assigned by the Attorney General or the Deputy Attorney General.

§ 0.36 Recommendations.

The Pardon Attorney shall submit all all recommendations in clemency cases to the Attorney General through the Deputy Attorney General.

13. The preambular paragraph of section 0.40 of Subpart H is revised to read as follows:

§ 0.40 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Antitrust Division:

* * * * *

14. The preambular paragraph of § 0.41 of Subpart H is revised to read as follows:

§ 0.41 Special functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Antitrust Division:

* * * * *

15. The preambular paragraph of section 0.45 of Subpart I is revised to read as follows:

§ 0.45 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Civil Division:

* * * * *

16. The preambular paragraph of section 0.50 of Subpart J is revised to read as follows:

§ 0.50 General functions.

Subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General, the following-described matters are assigned to, and shall be conducted,

handled, or supervised by, the Assistant Attorney General in charge of the Civil Rights Division:

* * * * *

17. The preambular paragraph of section 0.55 of Subpart K is revised to read as follows:

§ 0.55 General functions.

Subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Criminal Division:

* * * * *

18. The preambular paragraph of section 0.61 is revised to read as follows:

§ 0.61 Functions relating to internal security.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Criminal Division:

* * * * *

§ 0.61 [Amended]

19. Paragraphs (e) and (f) of section 0.61 are revoked.

20. The preambular paragraph of section 0.65 of Subpart M is revised to read as follows:

§ 0.65 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Land and Natural Resources Division:

* * * * *

21. The preambular paragraph of section 0.70 of Subpart N is revised to read as follows:

§ 0.70 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Tax Division:

* * * * *

22. Subpart O is revised to read as follows:

Subpart O—Office of Management and Finance

§ 0.75 General functions.

The Assistant Attorney General for Administration shall head the Office of Management and Finance and provide leadership in establishing basic Department policy for budget and financial management, auditing, personnel management and training, automatic data processing and telecommunications, security, and for all matters pertaining to organization, management, and administration. Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General for Administration:

(a) Conduct, direct, review, and evaluate management studies and surveys of the Department's organizational structure, functions, and programs, operating procedures and supporting systems, and management practices throughout the Department; and make recommendations to reduce costs and increase productivity.

(b) Supervise, direct, and review the preparation, justification and execution of the Department of Justice budget, including the coordination and control of the programming and reprogramming of funds.

(c) Review, analyze, and coordinate the Department's programs and activities to ensure that the Department's use of resources and estimates of future requirements are consistent with the policies, plans, and mission priorities of the Attorney General.

(d) Plan, direct, and coordinate Department-wide personnel management programs, develop and issue Department-wide policy in all personnel program areas, including training, position classification and pay administration, staffing employee performance evaluation, employee development, employee relations and services, employee recognition and incentives, equal employment opportunity programs, personnel program evaluation, labor-management relations, adverse action hearings and appeals, employee grievances, and employee health and safety programs.

(e) Develop and direct Department-wide financial management policies, programs, procedures, and systems including financial accounting, planning, analysis, and reporting.

(f) Supervise and direct the operation of the Department's central payroll system, Justice Data Center, Department Publication Services Facility and any other Department-wide central services which are established by or assigned to the Office of Management and Finance.

(g) Formulate and administer the General Administration Appropriation of the Department's budget.

(h) Supervise and direct independent and comprehensive internal audits, including examinations authorized by 28 U.S.C. 526, of all organizations, programs, and functions of the Department to assure that the programs and functions of the Department are being carried out efficiently and economically.

(i) Establish, control, and manage a Department-wide internal policy and management directives system.

(j) Plan, direct, and administer Department-wide policies, procedures, and regulations concerning records, reports, procurement, printing, graphics, forms management, supply management, motor vehicles, real and personal property, space assignment and utilization, and all other administrative service functions.

(k) Formulate Department policies, standards, and procedures for management information systems and the management and use of automatic data processing equipment; review the use and performance of management information systems with respect to Department objectives, plans, policies, and procedures; provide technical leadership and support to new Department-wide information systems; review and approve all automatic data processing contracts let by the Department; and provide the final review and approval of systems and procedures and standards for use of data elements and codes.

(l) Formulate policies, standards, and procedures for Department telecommunications systems and equipment and review their implementation.

(m) Provide computer and digital telecommunications services on an equitable resource-sharing basis to all organizational units within the Department.

(n) Formulate Department policies for the use of consultants and nonpersonal service contracts, review, and approve all nonpersonal service contracts, and review the implementation of Department policies.

(o) Serve as liaison with state and local governments on management affairs, and coordinate the Department's participation in Federal regional interagency bodies.

(p) Direct all Department security programs including personnel, physical, document, and automatic data processing and telecommunications security, and formulate and implement Department defense mobilization and contingency planning.

(q) Review legislation for potential impact on the Department's resources.

(r) Provide direct administrative support services to the Office of the Attorney General and its constituent organizational units, including the appointment of special assistants to the Attorney General.

§ 0.76 Specific functions.

Subject to the general supervision and direction of the Attorney General, the functions delegated to the Assistant Attorney General for Administration by this Subpart O shall also include the following specific functions:

(a) Directing the Department's financial management operations, including control of the accounting for appropriations and expenditures, employment limitations, voucher examination and audit, overtime pay, establishing per diem rates, promulgation of policies for travel, transportation, and relocation expenses, and issuance of necessary regulations pertaining thereto.

(b) Submission of requests to the Office of Management and Budget for apportionment or reapportionment of appropriations, including the determina-

tion, whenever required, that such apportionment or reapportionment indicates the necessity for the submission of a request for a deficiency or supplemental estimate, and to make allotments to organizational units of the Department of funds made available to the Department within the limits of such apportionments or reapportionments (31 U.S.C. 665).

(c) Approving per diem allowances for travel by airplane, train or boat outside the continental United States in accordance with paragraph 6.2c of the Standardized Government Travel Regulations.

(d) Reviewing settlements of claims, arising from Departmental operations, which are made by the Bureau of Prisons, the Federal Prison Industries, the Federal Bureau of Investigation, the Immigration and Naturalization Service, the Drug Enforcement Administration, the Law Enforcement Assistance Administration, and the Legal Activities under the Federal Claims Collection Act of 1966 and to exercise the claims settlement authority as to all other organizational units of the Department (31 U.S.C. 952).

(e) Authorizing payment of actual expense of subsistence (5 U.S.C. 5702 (c)).

(f) Prescribing regulations providing for premium pay pursuant to subchapter V of title 5, United States Code (5 U.S.C. 5541–5549).

(g) Authorizing payment of employee claims under the Military and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240–243).

(h) Submitting requests to the Comptroller General for decisions (31 U.S.C. 74).

(i) Making determinations with respect to employment and wages under section 3122 of the Federal Insurance Contributions Act (26 U.S.C. 3122).

(j) Supervising and directing the Department's procurement and contracting functions (excluding grant contracts) and assuring that equal employment opportunity is practiced by the Department's contractors and subcontractors and in federally assisted programs under the Department's control (other than those of the Law Enforcement Assistance Administration for which the LEAA has responsibility).

(k) Designating Contracts Compliance Officers pursuant to Executive Order 11246, as amended.

(l) Taking final action, including making all required determinations and findings in connection with negotiated purchases and contracts (excluding grant contracts), as provided in paragraphs (1) through (11) and (14) and (15) of section 252(c) of title 41, United States Code, except that the authority as to paragraph (11) of section 252(c) shall be limited not to exceed an expenditure of $25,000 per contract and shall not be further delegated.

(m) Making the certificate required with respect to the necessity for including illustrations in printing (44 U.S.C. 1104).

(n) Making the certificates with respect to the necessity of long distance telephone calls (31 U.S.C. 680a).

(o) Taking final action with respect to certain unclaimed privately owned personal property (including abandoned property) of an estimated value of $100 or less, and cash or negotiable instruments not to exceed $5,000 (41 CFR 101–43.4, 101–45.4).

(p) Making certificates of need for space (68 Stat. 518, 519).

(q) Exercising, except for the authority conferred in § 0.17 of Subpart C and §§ 0.137 and 0.138 of Subpart X of this part, the power and authority vested in the Attorney General to take final action on matters pertaining to the employment, separation, and general administration of personnel in General Schedule grades GS–1 through GS–15, and in wage board positions; to classify positions in the Department under the General Schedule and wage board systems regardless of grade; to postaudit and correct any personnel actions throughout the Department; and to inspect at any time any personnel operations of the Legal Activities, the Federal Bureau of Investigation, the Bureau of Prisons, the Federal Prison Industries, the Immigration and Naturalization Service, the Drug Enforcement Administration, and the Law Enforcement Assistance Administration.

(r) Selecting and assigning employees for training by, in, or through non-Government facilities, paying the expenses of such training or reimbursing employees therefor, and preparing and submitting the required annual report to the Civil Service Commission (5 U.S.C. 4103–4118).

(s) Exercising authority for the temporary employment of experts or consultants or organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)).

(t) Auditing expenditures made under the Department's contracts (other than external audit of the grantees and law enforcement assistant contractors of the Law Enforcement Assistance Administration).

(u) Providing assistance in furnishing information to the public under the Public Information Section of the Administrative Procedure Act (5 U.S.C. 552).

(v) Representing the Department in its contacts on matters relating to administration and management with the Congressional Appropriatons Committees, Office of Management and Budget, the General Accounting Office, the Civil Service Commission, the General Services Administration, the Joint Committee on Printing, the Government Printing Office, and all other Federal departments and agencies.

§ 0.77 Redelegation of authority.

The Assistant Attorney General for Administration is authorized to redelegate to any Department official any of the power or authority vested in him by this Subpart O. Existing redelegations by the Assistant Attorney General for Administration shall continue in force and effect until modified or revoked.

23. The preambular paragraph of § 0.111 of Subpart T is revised to read as follows:

§ 0.111 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Director of the U.S. Marshals Service shall direct and supervise all activities of the U.S. Marshals Service including:

* * * * *

24 The preambular paragraph of § 0.115 of Subpart U is revised to read as follows:

§ 0.115 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Board of Immigration Appeals shall review and determine:

* * * * *

25. The preambular paragraph of § 0.116 of Subpart U is revised to read as follows:

§ 0.116 Decisions subject to review by Attorney General.

The Board, through the Deputy Attorney General, shall refer to the Attorney General for review of its decision all cases which:

* * * * *

26. The preambular paragraph of § 0.125 of Subpart V is revised to read as follows:

§ 0.125 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, as to policy and programming, the Board of Parole shall have:

* * * * *

§§ 0.135–0.136 [Revoked]

27. Sections 0.135 and 0.136 of Subpart X are revoked.

28. The last sentence of § 0.137 is revised to read as follows:

§ 0.137 Federal Bureau of Investigation.

* * * All personnel actions taken under this section shall be subject to postaudit and correction by the Assistant Attorney General for Administration.

29. Section 0.138 is revised to read as follows:

§ 0.138 Bureau of Prisons, Federal Prison Industries, Immigration and Naturalization Service, Drug Enforcement Administration, and Law Enforcement Assistance Administration.

The Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of the Immigration and Naturalization Service, and the Administrator of the Drug En-

forcement Administration are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, classification, and separation) of personnel in General Schedule grades GS–1 through GS–15 and in wage board positions. Such officials, and the Administrator of the Law Enforcement Assistance Administration, are, as to their respective jurisdictions, authorized to exercise the power and authority vested in the Attorney General by law to employ on a temporary basis experts or consultants or organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)). All personnel actions taken under this section shall be subject to postaudit and correction by the Assistant Attorney General for Administration.

§§ 0.139 through 0.145 [Amended]

30. Paragraph (a) of § 0.139 is amended by inserting "the Deputy Attorney General," immediately before "the Director of the Federal Bureau of Investigation."

31. Section 0.140 is amended by inserting "The Deputy Attorney General," at the beginning thereof and deleting "(including U.S. Attorneys)."

32. Section 0.141 is amended by inserting "The Deputy Attorney General," at the beginning thereof.

33. Section 0.142 is amended by inserting "The Deputy Attorney General," at the beginning thereof and deleting "(including U.S. Attorneys and Marshals)."

34. Section 0.143 is amended by inserting "The Deputy Attorney General," at the beginning thereof and deleting "(including U.S. Attorneys)."

35. Section 0.144 is amended by inserting "The Deputy Attorney General," at the beginning thereof and deleting "(including U.S. Attorneys)."

36. Section 0.145 is amended by inserting "The Deputy Attorney General," at the beginning thereof and deleting "(including U.S. Attorneys)."

37. Section 0.147 is revised to read as follows:

§ 0.147 Certification of obligations.

The following designated officials are authorized to make the certifications required by section 1311(c) of the Supplemental Appropriations Act, 1955 (68 Stat. 831; 31 U.S.C. 200(c)): for the Legal Activities, the Deputy Attorney General or the Executive Officer, Office of Legal Administration; for the Federal Bureau of Investigation, the Assistant Director, Administrative Division; for the Bureau of Prisons, the Assistant Director, Administrative Services; for Federal Prison Industries, the Secretary; for the Immigration and Naturalization Service, the Assistant Commissioner, Administrative Division; for the Drug Enforcement Administration, the Director of Administration and Management; for the Law Enforcement Assistance Administration, the Chief, Administrative Services Division; and for all other organizational units of the Department, the Assistant Attorney General for Administration or the Director, Budget and Finance Staff, Office of Management and Finance.

§ 0.148 [Amended]

38. Section 0.148 is amended by inserting "for the Legal Activities, the Deputy Attorney General;" immediately before "for the Federal Bureau of Investigation, the Director;" and by deleting "(including U.S. Attorneys and Marshals)."

§ 0.149 [Amended]

39. Section 0.149 is amended by inserting "The Deputy Attorney General," at the beginning thereof and deleting "(including U.S. Attorneys and Marshals)."

40. Section 0.150 is revised to read as follows:

§ 0.150 Collection of erroneous payments.

The Director of the Federal Bureau of Investigation, the Commissioner of Immigration and Naturalization Service, for their respective jurisdictions, and the Assistant Attorney General for Administration, for all other organizational units of the Department, are authorized, in accordance with the regulations prescribed by the Attorney General under section 5514(b) of title 5, United States Code, to collect indebtedness resulting from erroneous payments to employees.

41. Section 0.151 is amended by inserting "The Deputy Attorney General" at the beginning thereof and by deleting "(including U.S. Attorneys)."

§§ 0.152 through 0.155 [Amended]

42. Section 0.152 is amended by inserting "The Deputy Attorney General," at the beginning thereof and by deleting "(including U.S. Attorneys and Marshals)."

43. Section 0.153 is amended by inserting "The Deputy Attorney General," at the beginning thereof and by deleting "(including U.S. Attorneys and Marshals)."

44. Section 0.154 is amended by inserting "The Deputy Attorney General," at the beginning thereof and by deleting "(including U.S. Attorneys and Marshals)."

45. Section 0.155 is amended by inserting "The Deputy Attorney General" at the beginning thereof and deleting "(including U.S. Attorneys and Marshals)."

46. Section 0.159 is revised to read as follows:

§ 0.159 Redelegation of authority.

Except as to the authority delegated by § 0.147, the authority conferred by this Subpart X upon heads of organizational units may be redelegated by them, respectively, to any of their subordinates. Existing delegations of authority to officers and employees and to U.S. Attorneys, not inconsistent with this Subpart X, made by any officer named in this section or by the Assistant Attorney General for Administration, shall continue in force and effect until modified or revoked.

§ 0.160 [Amended]

47. Paragraph (b) of § 0.160 of Subpart Y is amended by inserting "the Deputy Attorney General or" immediately before "the Attorney General."

§ 0.161 [Amended]

48. The caption of § 0.161 is revised to read: "Recommendations to Deputy Attorney General of acceptance of certain offers" and the text of § 0.161 is amended by substituting "the Deputy Attorney General" for "the Attorney General."

§ 0.164 [Amended]

49. Paragraph (b) of § 0.164 is amended by inserting "the Deputy Attorney General or" immediately before "the Attorney General."

§ 0.165 [Amended]

50. Section 0.165 is amended by substituting "the Deputy Attorney General" for "the Attorney General" each place it appears.

§ 0.167 [Amended]

51. The preliminary statement of § 0.167 is amended by substituting "the Deputy Attorney General" for "the Attorney General" each place it appears.

52. Paragraph (c)(3) of § 0.167 is amended by inserting "the Deputy Attorney General or" immediately before "the Attorney General."

§ 0.168 [Amended]

53. Paragraph (b) of § 0.168 is amended by substituting "the Deputy Attorney General" for "the Attorney General."

§ 0.171 [Amended]

54. Paragraph (a) of § 0.171 is amended by deleting "Subject to the general supervision and direction of the Attorney General," and substituting "Subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General."

55. Section 0.190 of Subpart BB is revised to read as follows:

§ 0.190 Changes within organizational units.

The head of each Bureau, Division, Office or Board may from time to time propose the establishment, transfer, reorganization, or termination of major functions, sections, or other subunits within his organizational unit as he may deem necessary or appropriate. For purposes of this section, major functions, sections, or subunits are defined as any organizational activity under the supervision or proposed supervision of an individual at or above the GS–15 level or equivalent. In each instance, the head of the Bureau, Division, Office or Board shall submit the proposed change in writing to the Assistant Attorney General for Administration who shall evaluate it and submit the proposed change along with his recommendation to:

(a) The Deputy Attorney General if the proposed change involves an organizational unit within the Department's Legal Activities, as defined in § 0.1(c). Final authority to implement the proposed change is contingent upon the approval of the Deputy Attorney General.

(b) The Attorney General if the proposed change involves an organizational unit within the Office of the Attorney General or a Bureau, as defined in § 0.1 (a) and (d), respectively. Final authority to implement the proposed change is contingent upon the approval of the Attorney General.

56. Section 3.2 of Part 3, relating to gambling devices, is revised to read as follows:

§ 3.2 Assistant Attorney General, Criminal Division.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Assistant Attorney General in charge of the Criminal Division is authorized to exercise the power and authority and to perform the functions vested in the Attorney General by the Act. (See also 28 CFR 0.55(1).)

§ 3.6 [Amended]

57. Section 3.6 is amended by inserting a comma and "the Deputy Attorney General," immediately after "Attorney General."

§ 16.3 [Amended]

58. Paragraph (a) of § 16.3 of Subpart A of Part 16, relating to production or disclosure under 5 U.S.C. 552(a), is amended by substituting "Office of Public Information, Office of the Attorney General" for "Office of the Deputy Attorney General" each place it appears.

59. Section 16.4 is revised to read as follows:

§ 16.4 Requests referred to division primarily concerned.

(a) *Referral to responsible division.*—The Office of Public Information shall promptly upon receipt of a request for Department records, refer the request to the Executive Secretariat. The Executive Secretary shall ascertain which division of the Department has primary concern with the records requested. As used in this subpart, the term "division" includes all divisions, bureaus, offices, services, administrations, and boards of the Department, the Pardon Attorney and Federal Prison Industries except as otherwise expressly provided. He shall then promptly forward the request to the responsible division and notify the requester of his action. The Executive Secretary shall maintain or be furnished with a file copy of each request received, and records to show the date of its receipt from the requester, the division to which it was forwarded, and the date on which it was forwarded. For all purposes under this subpart the Board of Immigration Appeals and the Bureau of Prisons shall be considered the responsible division with respect to requests sent directly to them pursuant to § 16.3 of this subpart.

(b) *Executive Secretariat shall assure timely response.*—The Executive Secretariat shall periodically review the practices of the divisions in meeting the time requirements set out in § 16–5 of this subpart, and take such action to promote timely responses as it deems appropriate.

§ 16.5 [Amended]

60. Section 16.5 is amended by substituting "the Executive Secretary" for the "Deputy Attorney General" each place it appears and by substituting "Executive Secretariat" for "Office of the Deputy Attorney General."

§§ 16.7–16.8 [Amended]

61. Paragraph (d) of § 16.7 is amended by substituting "Executive Secretary" for "Deputy Attorney General" each place it appears.

62. Section 16.8 is amended by substituting "Executive Secretary" for "Deputy Attorney General" each place it appears.

Dated October 17, 1973.

ELLIOT RICHARDSON,
Attorney General.

[FR Doc.73-22722 Filed 10-25-73;8:45 am]

[Order No. 544–73]

PART 50—STATEMENTS OF POLICY

Policy Regarding Issuance of Subpoenas to, and Interrogation, Indictment, or Arrest of, Members of News Media

By virtue of the authority vested in me by sections 516 and 519 of Title 28, of the United States Code, Part 50 of Chapter I of Title 28 of the Code of Federal Regulations is amended by inserting immediately after § 50.9 a new § 50.10 as follows.

§ 50.10 Policy with regard to the issuance of subpoenas to, and the interrogation, indictment, or arrest of, members of the news media.

Because freedom of the press can be no broader than the freedom of reporters to investigate and report the news, the prosecutorial power of the government should not be used in such a way that it impairs a reporter's responsibility to cover as broadly as possible controversial public issues. In balancing the concern that the Department of Justice has for the work of the news media and the Department's obligation to the fair administration of justice, the following guidelines shall be adhered to by all members of the Department:

(a) In determining whether to request issuance of a subpoena to the news media, the approach in every case must be to strike the proper balance between the public's interest in the free dissemination of ideas and information and the public's interest in effective law enforcement and the fair administration of justice.

(b) All reasonable attempts should be made to obtain information from nonmedia sources before there is any consideration of subpoenaing a representative of the news media.

(c) Negotiations with the media shall be pursued in all cases in which a subpoena is contemplated. These negotiations should attempt to accommodate the interests of the trial or grand jury with the interests of the media. Where the nature of the investigation permits, the government should make clear what its needs are in a particular case as well as its willingness to respond to particular problems of the media.

(d) If negotiations fail, no Justice Department official shall request, or make arrangements for, a subpoena to any member of the news media without the express authorization of the Attorney General. If a subpoena is obtained without authorization, the Department will—as a matter of course—move to quash the subpoena without prejudice to its rights subsequently to request the subpoena upon the proper authorization.

(e) In requesting the Attorney General's authorization for a subpoena, the following principles will apply:

(1) There should be reasonable ground based on information obtained from nonmedia sources that a crime has occurred.

(2) There should be reasonable ground to believe that the information sought is essential to a successful investigation—particularly with reference to directly establishing guilt or innocence. The subpoena should not be used to obtain peripheral, nonessential or speculative information.

(3) The government should have unsuccessfully attempted to obtain the information from alternative nonmedia sources.

(4) The use of subpoenas to members of the news media should, except under exigent circumstances, be limited to the verification of published information and to such surrounding circumstances as relate to the accuracy of the published information.

(5) Even subpoena authorization requests for publicly disclosed information should be treated with care to avoid claims of harassment.

(6) Subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of the demand for documents.

(f) No member of the Department shall subject a member of the news media to questioning as to any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General: *Provided, however,* That where exigent circumstances preclude prior approval, the requirements of paragraph (j) of this section shall be observed.

(g) A member of the Department shall secure the express authority of the Attorney General before a warrant for an

arrest is sought, and whenever possible before an arrest not requiring a warrant, of a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media.

(h) No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General.

(i) In requesting the Attorney General's authorization to question, to arrest or to seek an arrest warrant for, or to present information to a grand jury seeking a bill of indictment or to file an information against, a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media, a member of the Department shall state all facts necessary for determination of the issues by the Attorney General. A copy of the request will be sent to the Director of Public Information.

(j) When an arrest or questioning of a member of the news media is necessary before prior authorization of the Attorney General can be obtained, notification of the arrest or questioning, the circumstances demonstrating that an exception to the requirement of prior authorization existed, and a statement containing the information that would have been given in requesting prior authorization, shall be communicated immediately to the Attorney General and to the Director of Public Information.

(k) Failure to obtain the prior approval of the Attorney General may constitute grounds for an administrative reprimand or other appropriate disciplinary action.

Dated October 16, 1973.

ELLIOT RICHARDSON,
Attorney General.

[FR Doc.73-22773 Filed 10-25-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

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

Oxytetracycline Hydrochloride

In response to a petition (PP 3E1407) submitted by Mr. C. B. Christensen, Director, Department of Food and Agriculture, State of California, 1220 N Street, Sacramento, CA 95814, on behalf of the California pear growers, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of September 4, 1973 (38 FR 23806), proposing establishment of a tolerance for residues of the fungicide oxytetracycline hydrochloride in or on pears at 0.35 part per million resulting from infusion of the fungicide into pear trees after harvest and prior to formation of new blooms. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

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), Part 180 is amended by adding the following new section to Subpart C:

§ 180.337 Oxytetracycline hydrochloride; tolerance for residues.

A tolerance of 0.35 part per million is established for residues of the fungicide oxytetracycline hydrochloride in the raw agricultural commodity pears resulting from infusion of pear trees with an aqueous solution of the fungicide after harvest and prior to formation of new blooms.

Any person who will be adversely affected by the foregoing order may at any time on or before November 26, 1973 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E 4th & 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 October 26, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e).)

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22841 Filed 10-25-73;8:45 am]

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

Benomyl; Correction

In FR Doc. 73-20182 appearing at page 26450 in the issue of Friday, September 21, 1973, the paragraph "0.1 part per million * * *" in § 180.294 is corrected to read as follows:

0.1 part per million in eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry (except liver), and sheep.

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22842 Filed 10-25-73;8:45 am]

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

2,4-D

In response to a petition (PP 3E1326) submitted by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Florida, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of July 30, 1973 (38 FR 20266), proposing that § 180.142(a) be revised to permit the preharvest application of 2,4-dichlorophenoxyacetic acid butoxyethyl ester to citrus fruits. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

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 Assistance Administrator for Pesticide Programs (36 FR 9038), § 180.142 is amended by revising paragraph (a) to read as follows:

§ 180.142 2,4-D; tolerances for residues.

(a) A tolerance of 5 parts per million is established for residues of the herbicide and plant regulator 2,4-D (2,4-dichlorophenoxyacetic acid) in or on the following raw agricultural commodities: Apples, citrus fruits, pears, quinces. The tolerance on citrus fruits also includes residues of 2,4-D (2,4-dichlorophenoxyacetic acid) from the preharvest application of 2,4-D isopropyl ester and 2,4-D butoxyethyl ester to citrus fruits and from the post-harvest application of the 2,4-D isopropyl ester to lemons.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before November 26, 1973 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & 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 October 26, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e).)

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22843 Filed 10-25-73;8:45 am]

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

Sodium Chlorate

In response to a petition (PP 2E1286) submitted by the California Department of Agriculture, 1220 N Street, Sacramento, CA 95814, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of August 27, 1973 (38 FR 22897), proposing establishment of an exemption from the requirement of a tolerance for residues of sodium chlorate in or on the raw agricultural commodity chili peppers. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

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), § 180.1020 is revised to read as follows:

§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate is exempted from the requirement of a tolerance for residues in or on cottonseed and chili peppers when used in accordance with good agricultural practice as a defoliant, desiccant, or fungicide on cotton and as a defoliant on chili peppers.

Any person who will be adversely affected by the foregoing order may at any time on or before October 26, 1973 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & 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 October 26, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e).)

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22844 Filed 10-25-73;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1157]

PART 1033—CAR SERVICE

Kansas City Southern Railway Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of October 1973.

It appearing, that the Kansas City Southern Railway Company (KCS) is unable to operate over a portion of its lines in Lake Charles, Louisiana, because of its inability to lower its drawbridge over the Calcasieu River; that operation of KCS trains over parallel tracks of the Southern Pacific Transportation Company (SP) will enable the KCS to continue service to all shippers located along its lines in Lake Charles; that the SP has consented to use of its tracks by the KCS; that operation of the KCS over the aforementioned tracks of the SP is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1157 Service Order No. 1157.

(a) *The Kansas City Southern Railway Co. Authorized to Operate over certain tracks of Southern Pacific Transportation Co.*—The Kansas City Southern Railway Company (KCS) be, and it is hereby, authorized to operate over tracks of the Southern Pacific Transportation Company (SP) between SP mileposts 218.0 and 222.8 at Lake Charles, Calcasieu Parish, Louisiana, a distance of approximately 4.8 miles.

(b) *Application.*—The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.*—Inasmuch as this operation by the KCS over tracks of the SP is deemed to be due to carrier's disability, the rates applicable to traffic moved by the KCS over these tracks of the SP shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.*—This order shall become effective at 12:01 a.m., October 23, 1973.

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., November 30, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-22831 Filed 10-25-73;8:45 am]

[Amendment No. 5 to Service Order No. 1083]

PART 1033—CAR SERVICE

Southern Pacific Transportation Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of October 1973.

Upon further consideration of Service Order No. 1083 (36 FR 21203, 23803; 37 FR 12726; 38 FR 376 and 19126), good cause appearing therefor:

It is ordered, That:

Section 1033.1083 Car Service Order No. 1083. (Southern Pacific Transportation Company authorized to operate over tracks of the Texas and Pacific Railway Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—This order shall expire at 11:59 p.m., April 30, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date.—This amendment shall become effective at 11:59 p.m., October 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the

general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22834 Filed 10-25-73;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 726—BURLEY TOBACCO

Subpart—Burley Tobacco Marketing Quota Regulations, 1971–72 and Subsequent Marketing Years

On page 7395 of the FEDERAL REGISTER of March 21, 1973, and on pages 16901 through 16907 of the FEDERAL REGISTER of June 27, 1973, there was published a notice of proposed rulemaking regarding the issuance of amendments to the regulations for the establishment of farm marketing quotas, the collection and refund of penalties, and records and reports incident thereto for burley tobacco for the 1971–72 and subsequent marketing years.

Interested persons were given 10 and 30 days, respectively, after publication of such notices in which to submit data, views, or recommendations. The data, views, and recommendations which were submitted pursuant to the notices were duly considered within the limits of the Agricultural Adjustment Act of 1938, as amended.

The changes in the regulations from those in effect for 1970–71 and subsequent marketing years were explained in the proposal published in the FEDERAL REGISTER on June 27, 1973. Some additional changes are made in the regulations as described below.

1. A new paragraph (c) is added to § 726.61 to provide for the apportioning of carryover tobacco that was produced on a parent farm and marketed after the effective date of a farm reconstitution.

2. Section 726.89 is amended to provide that the county committee (with concurrence of the State committee) may assess penalty for false identification or failure to account based on the actual marketing above 110 percent of the effective farm marketing quota in lieu of penalty based on 25 percent of the effective farm marketing quota when it is determined that assessment of penalty based on 25 percent of the effective quota would be unduly harsh when compared with the pounds in violation and no adverse effect on the program would result.

3. Section 726.94 is amended to require physical examination by ASCS personnel of all nonauction dealer purchases from processors or manufacturers in order to determine if the tobacco is in the form normally marketed by producers.

4. Minor changes have been made in other sections for uniformity and to change the name of an Agricultural Stabilization and Conservation Service (ASCS) Organization Unit to conform with an internal ASCS reorganization.

Tobacco farmers are now in the process of preparing their 1973 crop of burley tobacco covered by these regulations for market and tobacco warehousemen and farmers need to know the provisions of these regulations. Hence, it is essential that these regulations contained herein be made effective at the earliest possible date. Accordingly, it is hereby found and determined that the compliance with the notice, public procedure and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. The regulations contained herein shall become effective upon the date of filing this document with the Director, Office of the Federal Register.

The regulations are as follows:

1. Paragraphs (g) and (k) through (pp) of § 726.51 are amended to read:

§ 726.51 Definitions.

* * * * *

(g) *Director.* The Director or Acting Director, Program Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

* * * * *

(k) *False identification.* False identification occurs if:

(1) Tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which, in fact, it was produced on a different farm; or

(2) Tobacco was marketed or was permitted to be marketed in any marketing year from a farm and was not identified by a tobacco marketing card for the farm;

(3) The farm operator or any other producer on a farm permits the use of the tobacco marketing card for the farm to record a marketing of tobacco when, in fact, no tobacco was marketed from the farm.

(l) *Farm acreage allotment.* The allotment established for 1970, after any permanent adjustment and prior to any temporary adjustment.

(m) *Farm marketing quota*—(1) *Old farm.* The pounds determined by multiplying the preliminary farm marketing quota by the national factor, adjusted as required by the minimum provisions, of § 726.57(a), plus any permanent quota adjustment.

(2) *New farm.* The pounds for the farm determined by the county committee with the approval of the State committee.

(n) *Farm yield.* The farm yield determined as provided in § 726.55 or § 726.65.

(o) *Floor sweepings.* The actual quantity of scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business: *Provided,* That floor sweepings above the pounds determined by multiplying 0.0024 by the total first sales of tobacco at auction for the season for the warehouse, shall be deemed to be leaf account tobacco. Floor sweeping tobacco shall be kept separate from any other tobacco when sold.

(p) *Green weight.* The weight of tobacco which is in the form normally marketed by farmers prior to being redried, prized, or processed.

(q) *Hogshead.* A container in which tobacco is packed and stored.

(r) *Leaf account tobacco.* All tobacco purchased or otherwise acquired by or for the account of a warehouse, and shall include but not be limited to, tobacco from Buyers Corrections Account, sales and resales of such tobacco, floor sweepings purchased from another warehouseman or dealer, and floor sweepings deemed to be leaf account tobacco under paragraph (o) of this section.

(s) *Market.* The disposition of tobacco in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift between living persons. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(t) *Marketing recorder or field assistant.* Any employee of the U.S. Department of Agriculture, or any employee of an Agricultural Stabilization and Conservation Service county (ASCS) office, whose duties involve the preparation and handling of the records and reports pertaining to the identification of marketings of tobacco.

(u) *Marketing year.* The period beginning October 1 of the year in which the tobacco is produced and ending September 30 of the following year.

(v) *New farm.* A farm for which a marketing quota is established in the current year which did not previously have a quota established for the current year.

(w) *Nonauction sale.* Any first marketing of tobacco other than by a sale at auction.

(x) *Old farm*—(1) *1971 through 1975 crop years.* A farm which had a 1970 farm acreage allotment or there was burley tobacco planted or considered planted in 1 or more years of the base period.

(2) *1976 or later crop years.* A farm which had burley tobacco planted or considered planted in the base period.

(y) *Overmarketings.* The pounds by which the pounds marketed exceed the effective farm marketing quota.

(z) *Penalty-free carryover tobacco.* The pounds of unmarketed tobacco produced before calendar year 1971 which could have been marketed without penalty during the 1970–71 marketing year.

(aa) *Planted or considered planted credit.* Credit assigned in the current year for a farm with an established farm marketing quota when:

(1) Burley tobacco is planted on the farm,

(2) Quota is: (i) Leased and transferred from the farm, (ii) in the eminent domain pool, or (iii) preserved under

conservation programs or practices, as provided in Part 719 of this chapter,

(3) A restrictive lease on federally owned land is in effect prohibiting tobacco production, or

(4) Effective quota is zero because of overmarketings or a violation of regulations.

(bb) *Pool.* A quantity of tobacco delivered to a marketing agent.

(cc) *Preliminary farm marketing quota*—(1) *1971 crop year.* The pounds determined by multiplying the 1970 farm acreage allotment by the farm yield.

(2) *1972 and later crop years.* The farm marketing quota for the preceding year.

(dd) *Processed, processing.* A method of preparing green weight tobacco for storage in which the tobacco may be green prized, redried, stemmed, tipped or threshed and the resulting product packed in hogsheads.

(ee) *Production record.* A record prepared by a processor to account for the processing of tobacco.

(ff) *Quota adjustments*—(1) *Temporary.* (i) Effective undermarketings, (ii) overmarketings from any prior year, (iii) reapportioned quota from eminent domain pool, (iv) quota transferred by lease or by owner, (v) pounds in violation of the regulations for a prior year, and (vi) for 1971 only, pounds of penalty-free carryover tobacco.

(2) *Permanent.* (i) Old farm adjustment from reserve, and (ii) pounds transferred to the farm from the eminent domain pool.

(gg) Resale. The disposition by sale, barter, exchange, or gift between living persons, of tobacco which has been marketed previously.

(hh) *Sale day.* The period at the end of which the warehouseman bills to buyers the tobacco purchased by them during such period.

(ii) *Scrap tobacco.* The residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(jj) *Strip, scrap, stem.* Types of products resulting from processing of tobacco where the tobacco is "tipped" and "threshed."

(kk) *Suspended sale.* Any marketing of tobacco at auction for which the sale is not identified by a producer marketing card or a dealer's identification card by the end of the sale day on which such marketing occurred.

(ll) *Tobacco.* Burley tobacco, type 31, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture.

(mm) *Tobacco available for marketing.* All tobacco produced on a farm which has not been marketed and which has not been disposed of so that it cannot be marketed.

(nn) *Trucker.* A person who trucks or hauls tobacco for producers or other persons.

(oo) *Undermarketings*—(1) *Actual.* The pounds by which the effective farm marketing quota is more than the pounds marketed.

(2) *Effective.* The smaller of actual undermarketings or the sum of the previous year's farm marketing quota plus pounds leased to the farm for the previous year.

(pp) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

2. In § 726.52 a new paragraph (c) is added to read as follows:

§ 726.52 Extent of determinations, computations, and rule for rounding fractions.

* * * * *

(c) *Percentage reduction for violation.* A percentage of reduction in a tobacco farm marketing quota due to a violation shall be determined in tenths percent and calculations thereof rounded to the nearest tenth percent.

3. In § 726.61 a new paragraph (c) is added to read:

§ 726.61 Determination of quotas for reconstituted farms for 1972 and later years.

* * * * *

(c) Where carryover tobacco produced on a parent farm is marketed after the effective date of a reconstitution such marketing shall be charged to the divided tracts in the same ratio as the marketing quotas are established for the divided tracts or as the county committee determines that: (1) The proceeds from such marketing is received by the owner or operator of one or more of the divided tracts, or (2) the owners of the divided tracts agree.

4. Paragraph (b) of § 726.62 is amended to read:

§ 726.62 Correction of errors and adjusting inequities in marketing quotas for old farms.

* * * * *

(b) *Basis for adjustment.* Increases to adjust inequities in quotas shall be made on the basis of the past farm acreage and yields of tobacco, making due allowances for failed acreage and acreage prevented from being planted because of a natural disaster as determined under Part 718 of this chapter; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Not to exceed 1 percent of the national marketing quota minus that part of the national reserve set aside for establishing new farm marketing quotas shall be made available for adjusting inequities and correction of errors. The total of all adjustments in old farm quotas under this paragraph shall not exceed the pounds apportioned the county for such purpose.

5. The last sentence of paragraph (e) of § 726.64 is amended to read as follows:

§ 726.64 Marketing quotas and yields for farms acquired under the right of eminent domain.

* * * * *

(e) *Closing date for release and reapportionment.* * * * The dates will be determined and announced under Part 731 of this chapter.

6. § 726.68 is amended by revoking paragraph (m) and amending paragraphs (n) and (v) to read as follows:

§ 726.68 Transfer of burley tobacco farm marketing quota by lease or owner.

* * * * *

(m) [Reserved]

(n) *Limitation on transfer to and from a farm (subleasing).* (1) *Filed before August 1.* The county committee shall not approve any transfer filed for the current year before August 1 where, after approval, a transfer would be in effect both to and from the same farm: *Provided,* that a transfer may be approved where an allotment and quota are temporarily transferred from a farm for one or more years and the farm is subsequently combined with another farm that is otherwise eligible to receive allotment and quota by transfer.

(2) *Filed after July 31.* The county committee may approve a transfer filed for the current year after July 31 either to or from the same farm (but not both) irrespective of whether any transfer filed before August 1 is in effect for the farm.

* * * * *

(v) *Violations.* If consideration of a violation is pending which may result in a quota reduction for a farm for the current crop year, the county committee shall delay approval of any transfer from the farm until the violation is cleared or the quota reduction is made. However, if the quota reduction in such a case cannot be made effective for the current crop year before April 1 in the States of Alabama, Georgia, North Carolina, South Carolina and Virginia and May 1 for all other States, an annual transfer from the farm may be approved by the county committee. In any case, if, after a transfer of quota has been approved by the county committee, it is determined that the quota for the farm from which the marketing quota is leased is to be reduced for a violation, the allotment reduction for such farm shall be delayed until the following year unless the quota after any reduction due to overmarketings or transfer is equal to or greater than the reduction for violation.

7. Paragraph (b) of § 726.70 is amended to read:

§ 726.70 Transfer of farm marketing quotas for farms affected by a natural disaster.

* * * * *

(b) *Application for transfer.* The owner or operator of a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of tobacco quota within the farm marketing quota for such year to another farm or farms in the same county or in any other nearby county in the same or another State if such quota cannot be timely planted or replanted because of the natural disaster determined for such year. The application shall be filed with the county com-

mittee for the county in which the farm affected by such disaster is located. If the application involves a transfer to a nearby county, the county committee for the nearby county shall be consulted before action is taken by the county committee receiving the application.

8. Section 726.80 is amended to read as follows:

§ 726.80 Identification of kinds of tobacco.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths of Burley tobacco shall be considered Burley tobacco without regard to any factors of historical or geographical nature which cannot be determined by examination of the tobacco. The term "tobacco" with respect to any farm located in an area in which Burley tobacco as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture, is normally produced shall include all tobacco, excluding other kinds subject to marketing quotas, produced on a farm unless the county committee with the approval of the State committee determines from satisfactory proof furnished by the operator of the farm that a part or all of such tobacco is certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511), and regulations issued pursuant thereto, as a kind of tobacco not subject to marketing quotas. Any tobacco produced in the Burley area that is to be marketed in an area where quotas are not in effect, will be considered as Burley unless it is classified by a USDA inspector as another type of tobacco prior to its removal from the Burley area.

9. In § 726.85 subparagraph (2) of paragraph (e) is amended to read as follows:

§ 726.85 Identification of marketing.

* * * * *

(e) *Separate display on auction warehouse floor.* * * * (2) Identify each basket by a distinguishably different basket ticket clearly showing the kind of tobacco except where the tobacco is represented to be a nonquota kind the basket ticket shall have imprinted thereon the type designation for the kind of quota tobacco normally marketed in the area.

10. Paragraph (c) of § 726.86 is amended by adding 1972–73 average market price data in subparagraph (1) and 1973–74 rate of penalty data in subparagraph (2) to read as follows:

§ 726.86 Rate of penalty.

* * * * *

(c) (1) *Average market price.* * * *

AVERAGE MARKET PRICE

Marketing year:	Cent per pound
1970–71	72.2
1971–72	80.9
1972–73	79.2

(2) Rate of penalty per pound. * * *

RATE OF PENALTY

Marketing year:	Cent per pound
1971–72	54
1972–73	61
1973–74	59

11. In § 726.88 paragraphs (a) and (b) are amended to read as follows:

§ 726.88 Penalties considered to be due from warehousemen, dealers, buyers, and others excluding the producer.

* * * * *

(a) *Auction sale without marketing card.* Any first marketing of tobacco at an auction sale by a producer which is not identified by a valid marketing card at the time of marketing shall be considered to be a marketing of excess tobacco and the penalty thereon shall be collected and remitted by the warehouseman unless prior to marketing an AMS inspection certificate is obtained showing that the tobacco is of a kind not subject to marketing quotas.

(b) *Nonauction sale.* Any nonauction marketing of tobacco which:

(1) is not identified by a valid marketing card and recorded at the time of marketing on MQ–79, Dealer's Report, the marketing card and MQ–72–2 Report of Nonauction Purchase; or

(2) if purchased prior to the opening of the local auction market for the current year, is not identified by a valid marketing card and recorded on MQ–79, the marketing card, and MQ–72–2 report of tobacco nonauction purchase not later than the end of the calendar week which includes the first sale day of the local auction markets, shall be considered a marketing of excess tobacco. The penalty thereon shall be collected by the purchaser of such tobacco, and remitted with MQ–79 unless prior to marketing an AMS inspection certificate is obtained showing that the tobacco is of a kind not subject to marketing quotas.

12. Section 726.89 is revised to read as follows:

§ 726.89 Producers penalties; false identification; failure to account, canceled quotas; overmarketing proportionate share.

(a) *Penalties for marketing over 110 percent of quota.* Penalty at the full rate shall be due on any marketings which exceed 110 percent of the effective farm marketing quota.

(b) *Penalties for false identification or failure to account.* If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, penalty at the full rate shall be due on the larger of: (1) The actual marketings above 110 percent of the effective farm marketing quota, or (2) the amount of tobacco equal to 25 percent of the effective farm marketing quota. The requirement of paragraph (b) (2) of this section shall not be applied for the 1973–4 and subsequent marketing year if the county committee determines (with concurrence of State committee) that assessment of penalty based on 25 percent of the effective farm marketing quota would be unduly harsh when compared with the pounds in violation and no adverse effect on the program would result. The requirements of this paragraph need not be applied if it is determined by the State and county committees that the pounds in violation are very small when compared to the effective quota, and no adverse effect on the operation of the tobacco program in the area would result.

(c) *Canceled quota.* If part or all of the tobacco produced on a farm has been marketed and the quota for the farm is canceled, any penalty due on the marketings shall be paid by the producers.

(d) *Overmarketing proportionate share of effective farm marketing quota.* If the county committee determines that the farm operator or another producer on the farm has marketed more than 110 percent of his proportionate share of the effective farm marketing quota with intent to deprive some other producer on the farm from marketing his proportionate share of the same crop of tobacco, such operator or other producer shall be liable for marketing penalties at the full rate per pound for each pound marketed above 110 percent of his proportionate share of the effective farm marketing quota: *Provided*, That the sum of such penalties shall not exceed the total penalty due on total marketings above 110 percent of the effective farm marketing quota for the farm on which such tobacco was produced. Before assessment of penalty pursuant to this paragraph (d), a hearing shall be scheduled by the county committee and the operator and affected producers shall be invited to be present, or to be represented, to determine whether the operator or another producer on the farm has marketed more than 110 percent of his proportionate share of the effective farm marketing quota. The notice of the hearing shall request the farm operator and affected producers to bring to the hearing tobacco sale bills and other relevant supporting documents. At least two members of the county committee shall be present at the hearing. The hearing shall be held at the time and place named in the notice and any action taken to impose penalty shall be taken after the hearing. If the farm operator or other affected producer does not attend the hearing, or is not represented, the county committee may take whatever action it deems necessary to assess penalty against the proper producers. If a hearing under § 726.81(a) is being held, and it is practicable to do so, such hearing and the hearing under this paragraph may be combined.

(e) *Penalties not to be assessed.* Where the operator or another producer on the farm markets a quantity of tobacco above 110 percent of the effective marketing quota for the farm and such overage is found to have been caused by the failure to record, or improper recording of tobacco poundage data on the marketing card, that amount of the penalty as was due to such failure to record or improper recording will not be

required to be paid by the farm operator or other producer on the farm if: (1) For amounts of $10 or less the county committee, and (2) for amounts above $10 the county committee, with the approval of the State committee, determines that each of the following conditions is applicable: (i) The failure to record or incorrect recording resulted from action or inaction of a marketing recorder or another ASCS employee, and (ii) the farm operator or another producer on the farm had no knowledge of such failure or error. Overmarketing for a farm for which the marketing penalty will not be paid pursuant to the provisions of this paragraph (e) shall be determined based upon the correct effective farm marketing quota and correct actual marketings of tobacco from the farm.

11. In § 726.92, paragraphs (c) and (e) are revised to read as follows:

§ 726.92 Producer's records and reports.

(c) *False identification.* Where false identification (see § 726.51(k)) occurs as to any tobacco, the marketing quota next established for the farm or farms and kind of tobacco involved shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) no person on such farm intentionally participated in such marketing or could have reasonably been expected to have prevented such marketing: *Provided,* That, the marketing shall be construed as intentional, unless all tobacco from the farm is accounted for and payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the quota is being established caused, aided, or acquiesced in such marketing. The requirements of this paragraph need not be applied if it is determined by the State and county committees that the pounds in violation are very small when compared to the effective quota, and no adverse effect on the operation of the tobacco program in the area would result.

* * * * *

(e) *Report of production and disposition.* In addition to any other reports which may be required by this subpart, the operator on each farm or any producer on the farm (even though no quota was established for the farm) shall, upon written request by certified mail from the State or county committee, within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108, Report of Production and Disposition, a written report on the production and disposition of all tobacco produced on the farm by sending the same to the State or county committee showing, as to the farm at the time of filing such report, (1) the total pounds of tobacco produced, (2) the amount of tobacco on hand and its location, (3) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price paid and the date of marketings, and (4) the complete details as to any tobacco disposed of other than by sale. The operator on each farm or any producer on the farm (even though no quota was established for the farm) shall, upon written request on Form MQ–108–1 from the county committee, within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108–1 a written report of the amount of tobacco produced on the farm which is unmarketed at the end of the marketing season and its location, and the amount of tobacco produced on any other farm which is unmarketed at the end of the marketing season and which is stored on the farm and its location. Failure to file the MQ–108 or MQ–108–1 as requested, the filing of an MQ–108 or MQ–108–1, which is found by the State or county committee to be incomplete or incorrect shall, to the extent that it involves tobacco produced on the farm, constitute failure of the producer to account for disposition of tobacco produced on the farm and the quota next established for such farm shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county or State committee that (i) failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided,* That such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the quota is being established caused, aided, or acquiesced in the failure to furnish such proof.

14. In § 726.93, subparagraph (8) of paragraph (a), subparagraph (3) of paragraph (f) and subparagraphs (11), (12), (13), and (14), of paragraph (g) are amended and new subparagraphs (15) and (16) of paragraph (g) and a new paragraph (m) are added to read as follows:

§ 726.93 Warehouseman's records and reports.

* * * * *

(8) *Nonquota tobacco or quota tobacco of a different kind.* Should tobacco be presented for sale that is represented to be nonquota tobacco or there is question as to what kind of quota tobacco is being offered, an inspection shall be obtained from the Agricultural Marketing Service (AMS) after the tobacco is weighed and in line for sale. Both the basket ticket and sale bill shall show the producer's name and address and the State and county code and farm number on which the tobacco was produced. If an AMS inspection shows that a basket or lot of tobacco is of a different kind than that identified by the basket ticket after it is weighed in and a sale bill prepared, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared. Copies of the basket ticket and sale bill shall be furnished to the State office at the end of the sale day.

* * * * *

(f) *Record and report of warehouseman's leaf account purchases and resales not on his floor.* * * *

(3) For all purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen, Form MQ–79 shall be prepared and a copy, including copies of Form MQ–72–2 for all nonauction purchases, forwarded to the State ASCS office not later than the end of the calendar week (at the end of each sales day during the auction season for such warehouse) in which such tobacco was purchased or resold: *Provided,* That, if tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy, together with copies of MQ–72–2 for all nonauction purchases, forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale day of the local auction markets. A remittance of all penalties shown by the entries on MQ–79 and Form MQ–72–2 to be due shall be forwarded to the State ASCS office with the original copy of MQ–79.

(g) *Daily warehouse sales summary.* * * *

(11) The totals of the purchases column total on the MQ–79 representing the nonauction purchases for the warehouse leaf account.

(12) The totals of the resales column on the MQ–79 representing the nonauction sales (including floor sweepings nonauction sales) for the warehouse leaf account.

(13) For each warehouse sale of excess tobacco from a farm, the applicable farm number with daily remittance of the penalty due to accompany Form MQ–72–1.

(14) For each dealer, at time of settlement having excess resale tobacco, the applicable dealer identification number with daily remittance of the penalty due.

(15) As to the information required to be entered on MQ–80, Daily Warehouse Sales Summary, by the marketing recorder, the warehouseman shall keep and make available such records as will enable the marketing recorder to enter thereon: (i) The total number of Forms MQ–72–1 for the sale day and the sum of pounds sold and shown on Forms MQ–72–1, and (ii) the total number of suspended sale bills and the sum of such pounds sold.

(16) At the end of the season, each warehouseman shall: (i) Report on his final MQ–80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location, (ii) permit its inspection by a representative of ASCS, and (iii) provide for the weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained as provided in

paragraph (g)(15)(iii) of this section, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

* * * * *

(m) *Reporting of processed leaf account or floor sweepings tobacco.* Any warehouseman who delivers tobacco to a firm for the purpose of redrying, processing, or stemming of such tobacco shall by the end of the week in which such tobacco was delivered report to the State office on MQ–79, Dealer's Report: (1) the date delivered; (2) name and address of the firm to which the tobacco was delivered and (3) the pounds of tobacco (green weight) delivered which shall be entered in the resales pounds column. Such tobacco shall be considered as a resale on the date of delivery for the purpose of balancing the warehouse account and collection of penalties where penalties are due.

15. In § 726.94, subparagraph (2) of paragraph (c) and paragraph (e) is amended and new paragraphs (f) and (g) are added to read as follows:

§ 726.94 Dealer's records and reports.

* * * * *

(c) *Record and report of purchases and resales.* * * *

(2) Form MQ–79 shall be prepared and a copy, together with executed copies of MQ–72–2 for all nonauction purchases, forwarded to the State ASCS office not later than the end of the calendar week (for a warehouseman dealer, at the end of each sales day during the auction season for such warehouse) in which such tobacco was purchased or resold, except as follows: (i) If tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy, together with executed copies of Form MQ–72–2 for all nonauction purchases, forwarded to the State ASCS office not later than the end of the calendar week which would include the first sale day of the local auction markets; (ii) if tobacco is resold in a State other than where produced, and the auction markets at such locations opens earlier than those where the tobacco would normally be sold at auction by farms, reports shall be prepared and forwarded, together with executed copies of MQ–72–2 for all nonauction purchases, no later than the end of the calendar week which would include the first sale day of the local auction market where the resale takes place.

* * * * *

(e) *Damaged tobacco or tobacco purchased from processor or manufacturer.*—(1) *Damaged tobacco.* Any dealer, warehouseman, or other person who plans to purchase tobacco in the form normally marketed by producers for resale that was damaged by such things, as, but not limited to fire and water shall prior to purchase report such plans to the State ASCS office issuing MQ–79, Dealer Record Book. Such report shall be timely made so as to allow prior inspection for the marketable value of such damaged tobacco, and the weighing and removal of such tobacco to be witnessed by representatives of the State ASCS office. Any damaged tobacco purchased prior to reporting such plans to the State ASCS office and subsequent inspection by an ASCS representative shall be considered excess tobacco if later resold.

(2) *Purchase from processor or manufacturer.* Any dealer, warehouseman, or other person who plans to purchase tobacco for resale from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing MQ–79, Dealer Record Book. Such report shall be timely made so as to allow prior inspection to determine the marketable value of such tobacco, and whether such tobacco is in the form normally marketed by producers.

The weighing and removal of such tobacco shall be witnessed by representatives of the State ASCS office. Any such tobacco purchased prior to reporting such plans to the State ASCS office and subsequent inspection by an ASCS representative shall be considered excess tobacco if later resold.

(f) *Reporting of processed tobacco.* Any dealer who delivers tobacco to a firm for the purpose of redrying, processing or stemming of such tobacco shall by the end of the week in which such tobacco was delivered report to the State office on MQ–79, Dealer's Report: (1) the date delivered; (2) name and address of the firm to which the tobacco was delivered, and (3) the pounds of tobacco (green weight) delivered which shall be entered in the resales pounds column. Such tobacco shall be considered as a resale on the date of delivery for the purpose of balancing the dealer account and collection of penalties where penalties are due.

(g) *Tobacco represented to be nonquota kind.* Any dealer who has displayed for AMS inspection prior to purchase at nonauction tobacco from a farm in a quota area that is represented to be tobacco of a nonquota kind shall:

(1) Execute a basket ticket which shall have imprinted thereon the type designation for the kind of tobacco normally marketed in the area which shows: (i) the name and address of the producer, (ii) the pounds of tobacco in the basket and (iii) the State and county code and farm number on which produced.

(2) Execute a sale bill which shows: (i) the name and address of the producer; (ii) the State and county code and farm number on which produced; (iii) the pounds in each basket and total pounds for the farm; and shall furnish a copy of each basket ticket and sale bill to the State office at the end of the sale day.

16. Section 726.95 is amended to read as follows:

§ 726.95 Dealers exempt from regular records and reports on MQ–79; and season report for dealers.

(a) Any dealer or buyer who acquires tobacco in the form in which tobacco ordinarily is sold by farmers, and resells 5 percent or less of any such tobacco shall not be subject to the requirements of § 726.94 except for the requirements which relate to the reporting of nonauction purchases from producers and the requirements of paragraph (d) of § 726.94. A dealer or buyer whose resales in the form ordinarily sold by farmers exceed 5 percent of its purchases as a direct result of order buying for another dealer for a service fee may report under paragraph (b) of this section in lieu of § 726.94 (except for requirements which relate to nonauction purchases from producers and requirements of paragraph (d) of § 726.94), provided prior approval is obtained from the Director, Program Operations Division.

(b) For the 1971–72 and subsequent marketing years, each dealer or buyer shall also make a report not later than April 1 of each year to the Director, Program Operations Division, showing by States where acquired, source and pounds of all tobacco purchased in the form normally marketed by farmers, received by him as a result of auction or nonauction sale, including tobacco received which was not billed to him. The report shall show:

(1) For purchases at auction for each warehouse (i) USDA registration number (warehouse code), (ii) name and address of warehouse, (iii) gross pounds originally billed to the buyer, (iv) gross pounds for which payment was made, (v) gross pounds from the company correction account deducted for short baskets, short weights and returned baskets and, (vi) gross pounds from the company correction account added for long baskets and long weights.

(2) For purchases at nonauction (i) name and address of seller (dealer or farmer), (ii) seller's number (dealer's registration number or farm number, including State and county code), and (iii) pounds purchased.

17. In § 726.96, paragraphs (a)(4) and (b) are amended and new paragraphs (a)(5) and (c) are added to read:

§ 726.96 Records and reports of truckers, persons redrying, prizing, or stemming tobacco, and storage firms.

* * * * *

(4) The location where received.

(5) The name and address of the person to whom it was delivered.

* * * * *

(b) Each firm engaged in the business of redrying, prizing, or stemming tobacco shall keep records with respect to each lot of tobacco received by such firm showing:

(1) The name and address of producer, dealer, warehouseman or other person for whom the tobacco was received.

(2) The date of receipt of tobacco.

(3) The number of pounds (green weight) received.

(4) The purpose for which (tobacco was received (redrying, stemming, or prizing.)

(5) The amount of any advance or loan made by him on the tobacco.

(6) The disposition of the tobacco including the net weight of the tobacco

following redrying, prizing, or stemming and number of hogsheads by classification (strips, stems, scrap or leaf).

(7) Person to whom delivered and pounds involved.

Any such firm shall report this information to the State ASCS office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program, and tobacco purchased by him at auction or for which he has previously reported on Form MQ–79. Where such firm qualifies for the exemption in paragraph (a) of § 726.95, he is required to report only such tobacco received that does not belong to him.

(c) Each firm engaged in storing unprocessed tobacco shall keep records with respect to each lot of unprocessed tobacco received by such firm showing:

(1) The name and address of producer, dealer, warehouseman, marketing agent or other person for whom the tobacco was received;

(2) The date of receipt of the tobacco;

(3) The number of pounds received;

(4) The amount of any advance or loan made by him on the tobacco;

(5) The disposition of the tobacco; and

(6) The person to whom delivered and the pounds involved.

Any such firm shall report this information to the State ASCS office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program and tobacco purchased by him at auction or for which he had previously reported on Form MQ–79. Where such firm qualifies for the exemption in paragraph (a) of § 726.95 of this part, he is only required to report such tobacco received for storage that does not belong to him.

18. Section 726.101 is amended to read:

§ 726.101 Examination of records and reports.

For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining the information requied to be furnished, in any report, but not so furnished, any warehouseman, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers, shall make available at one place for examination by representatives of the State executive director and by employees of the Office of the Inspector General, and of the Program Operations Division and Tobacco and Peanuts Division of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, upon written request by the State executive director, all such books, papers, records, basket tickets, tobacco sale bills, buyer adjustment invoices, accounts, canceled checks, check register, check stubs, correspondence, contracts, documents, warehouse bill-out invoices or daily summary journal sheet, the tissue copy of Form MQ–72–1, Report of Tobacco Auction Sale, journal of producer marketing cards retained at warehouse and memoranda as the State executive director or the Director has reason to believe are relevant and are within the control of such person.

19. A new § 726.105 is added to read as follows:

§ 726.105 Recordkeeping and reporting requirements for processed producer carryover tobacco.

(a) *General.* Since carryover producer tobacco, which is processed and stored, may be in excess of 110 percent of a farm's marketing quota for the current year, the determination of the date of marketing and the terms and conditions under which the tobacco is processed and stored is important. Any contract or agreement between the farm operator and the warehouseman (or marketing agent) or between the warehouseman (or marketing agent) and the processor or storage firm may be submitted to the State executive director for an opinion as to whether the agreement when executed may be considered as constituting a marketing of tobacco. Even though a favorable opinion may have been given on an agreement or contract, an act or verbal agreement, which alters the terms or conditions of the agreement or contract submitted for opinion, may be considered as a marketing of tobacco.

(b) *Applicability.* The provisions of this section provide the recordkeeping and reporting requirements for firms which act as marketing agent, process, or store processed producer carryover tobacco.

(c) *Pounds to be charged to farm quota.* The pounds (green weight) delivered for processing shall be charged to the farm's marketing quota when marketed.

(d) *Marketing agent records and reports.* Each marketing agent shall keep such records that will enable him to fulfill the requirements of this section. In addition, the marketing agent shall keep all records relating to the receiving, processing, storage, and sale of producer tobacco delivered to him for processing.

(1) *Basket ticket and warehouse floor sheet or other delivery receipt.* The marketing agent shall prepare a basket ticket for each basket of tobacco received from a farm. In addition, the marketing agent shall prepare a warehouse floor sheet or other delivery receipt showing as a minimum the following information:

(i) Floor sheet or delivery receipt number;

(ii) Name and address of marketing agent;

(iii) Date tobacco is received.

(iv) Number of pounds in each basket and total pounds green weight received;

(v) State and county code and farm number on which the tobacco was produced; and

(vi) Farm operator's name and address.

The marketing agent shall not receive any tobacco from a farm unless a current year marketing card or a document, which shows the State and county code and farm number, is furnished the weighman, certified by the executive director of the county office serving the farm.

(2) *Furnishing floor sheet or delivery receipt to the State office.* The marketing agent shall by the end of the calendar week in which the tobacco was received furnish to the State office of the State in which the marketing agent's business is located a copy of each floor sheet or delivery receipt for tobacco received during that calendar week. The marketing agent shall attach to the floor sheets or delivery receipts a transmittal memorandum showing:

(i) Transmittal number (numbered, beginning with number one, in sequence until all floor sheets or delivery receipts are transmitted for a marketing year);

(ii) Date of transmittal;

(iii) Number of floor sheets or delivery receipts submitted in transmittal; and

(iv) Total pounds green weight on floor sheets or delivery receipts delivered by such transmittal.

(3) *Furnishing floor sheet or delivery receipt and basket ticket to processor.* The marketing agent shall furnish two copies of each floor sheet or delivery receipt to the processor when the tobacco identified by such floor sheet or delivery receipt is delivered for processing. One or more copies of each basket ticket shall remain with the respective basket of tobacco.

(4) *Storage warehouse receipts.* The marketing agent is responsible for arranging for the storage and subsequent sale of the tobacco and shall not authorize release of the processed tobacco from storage until such tobacco is sold.

(5) *Sales report.* The marketing agent shall by the end of the calendar week in which processed producer tobacco is sold furnish a sales report to the State office of the State in which his business is located showing:

(i) Purchaser's name, address, and dealer number;

(ii) Date of purchase;

(iii) Date and delivery order number authorizing the storage firm to deliver the tobacco to the purchaser;

(iv) Sale report number (numbered beginning with number one for each crop year in sequence until all the tobacco for which the marketing agent is responsible is sold);

(v) For each hogshead the hogshead number, grade and original net (processed) weight;

(vi) Total original net processed weight of sale; and

(vii) Percentage (rounded to thousandths of a percent) pounds (original processed net weight) sold is of total net (original processed) weight of pooled tobacco processed.

(6) *Summary sheet.* The marketing agent shall, by the end of the week in which processed producer tobacco is sold, furnish to the State office of the State in which his business is located, a summary sheet for each farm having tobacco in the pool, showing:

(i) Date of sale;

(ii) Purchaser's name, address, and dealer number;

(iii) Processed pounds sold and percentage sale is of total pounds processed rounded to thousandths of a percent;

(iv) Sales report number on which included; and

(v) Total pounds (green weight) sold for subject farm as of that summary computed by multiplying the farm's green weight pounds delivered for processing by a factor determined by adding (*a*) the percent which the pounds (original weight) of stems sold in all sales is to the total pounds net weight processed, and (*b*) the percent which the pounds (original weight) of strips and scrap sold in all sales is to the net weight of the strips and scrap processed; and by subtracting from the sum so determined, the lesser of the percent determined in paragraph (d) (6) (v) (*a*) of this section, or the percent determined in paragraph (d) (6) (v) (*b*) of this section, multiplied by the percent which the original weight of the strips and scrap processed is to the total pounds net weight processed. If all processed tobacco (strips, stems and scrap) is not sold to the same buyer on the same date, the marketing agent shall prepare separate summary sheets for each.

(7) *Retention of records.* The marketing agent shall keep all records, including those specified in this paragraph, for three years following completion of processed tobacco sales for a crop year pool.

(e) *Processor records and reports.* Each processor of producer-owned tobacco, in addition to the records and reports required by § 726.96, shall keep such records that will enable him to satisfy the requirements of this section. In addition, the processor shall keep all records relating to the receiving, processing, storage and sale of producer carryover tobacco delivered to him for processing.

(1) *Furnishing copy of floor sheet or delivery receipt to States office.* The processor shall furnish a copy of each floor sheet or delivery receipt to the State office of the State in which his business is located by the end of each calendar week in which tobacco represented by such floor sheets or delivery receipts was delivered for processing. The processor shall attach a transmittal memorandum to the floor sheets showing:

(i) Transmittal number (numbered beginning with number one, in sequence until all floor sheets or delivery receipts are transmitted for a marketing year);

(ii) Date of transmittal;

(iii) Number of floor sheets or delivery receipts submitted in transmittal; and

(iv) Total pounds green weight on floor sheets or delivery receipts delivered by such transmittal.

(2) *Production record.* The processor shall prepare a production record and furnish a copy to the marketing agent showing the:

(i) Hogshead number for strips, stems and scrap (the grade, gross, tare, and net weight shall be shown by the processor for each); and

(ii) Total pounds net processed weight for tobacco received for processing from such marketing agent.

(3) *Summary of tobacco processed.* The processor shall, by the end of the month in which producer tobacco is processed, furnish the marketing agent and State office of the State in which his business is located a summary showing the pounds green weight:

(i) Delivered for processing; and

(ii) Processed.

(4) *Retention of records.* The processor shall keep all records relating to processing producer tobacco, including those specified in this paragraph, for three years following the year in which such tobacco is processed.

(f) *Storage firm records and reports.* Any firm storing processed producer-owned tobacco, in addition to the records and reports required by § 726.96, shall:

(1) Issue to the marketing agent a blanket warehouse receipt with a detailed listing showing for each hogshead of processed producer tobacco stored, the hogshead number, grade, gross, tare and net weight; and

(2) Keep records relating to the storage transaction for three years following the year in which the last hogshead for a respective crop year is released by the marketing agent from storage.

(g) *Dealer buyer report.* Any dealer who purchases producer processed tobacco shall, by the end of the calendar week in which such tobacco was purchased, furnish the State office of the State in which his business is located by name of marketing agent for each hogshead purchased the: (1) grade; (2) crop year, and (3) original net processed weight of each.

(h) *Processed pounds reflected on marketing card.* The county committee shall deduct the pounds green weight delivered for processing from 110 percent of the following year's marketing quota for the farm and reflect the balance on any marketing card issued for the farm.

(i) *Tobacco residue accumulated by marketing agent from producer tobacco delivered for processing.* Bits or parts of leaves which accumulate in loading, unloading, and display areas during the time that tobacco is delivered to the marketing agent, weighed, and loaded out to the processor, not to exceed .2 percent of the total pounds of tobacco delivered for processing, may be marketed by the marketing agent. Such tobacco shall be kept separate and apart from any other tobacco in the possession of the marketing agent. The marketing agent shall weigh such tobacco residue accumulation in the presence of an ASCS representative and furnish the ASCS representative at such time a certified statement as to the total weight of such tobacco residue. When tobacco residue accumulated by marketing agent from producer tobacco delivered for processing is marketed it shall, by the end of the calendar week in which marketed, be reported on a separate MQ-79, Dealers Report, to the State ASCS office of the State in which the business is located

18. A new § 726.106 is added to read as follows:

§ 726.106 Recordkeeping and reporting requirements for unprocessed producer carryover tobacco.

(a) *General.* Since carryover producer tobacco may be in excess of 110 percent of a farm's marketing quota for the current year, the determination of the date of marketing and the terms and conditions under which the tobacco is stored is important. Any contract or agreement between the storage firm and the producer may be submitted to the State executive director for an opinion as to whether the agreement when executed may be considered as constituting a marketing of tobacco. Even though a favorable opinion may have been given on an agreement or contract, an act or verbal agreement which alters the terms or conditions of the agreement or contract submitted for opinion may be considered as a marketing of tobacco.

(b) *Applicability.* The provisions of this section provide the recordkeeping and reporting requirements for firms which act as marketing agent or store unprocessed producer carryover tobacco.

(c) *Pounds to be charged to farm quota.* The pounds green weight delivered for marketing or storage shall be charged to the farm marketing quota when marketed.

(d) *Storage firm records and reports.* Any storage firm storing unprocessed producer-owned tobacco, in addition to the records and reports required by § 726.96 of this part, shall keep such records that will enable him to satisfy the requirements of this section. In addition the storage firm shall keep all records related to receiving and storage of producer tobacco.

(1) *Basket ticket and delivery receipt.* The storage firm shall prepare a basket ticket for each basket of tobacco received from a farm. In addition, the storage firm shall prepare a delivery receipt showing as a minimum the following information:

(i) Delivery receipt number;

(ii) Name and address of storage firm;

(iii) Date tobacco is received;

(iv) Number of pounds in each basket and total pounds received from each farm;

(v) State and county code and farm number on which the tobacco was produced; and

(vi) Farm operator's name and address.

The storage firm shall not receive any tobacco from a farm unless a current year marketing card or a document which shows the State and county code and farm number, certified by the executive director of the county office serving the farm is furnished when the tobacco is delivered.

(2) *Furnishing delivery receipt to the State Office.* The storage firm shall, by the end of the calendar week in which tobacco was received, furnish to the State office of the State in which the

business is located a copy of each delivery receipt for tobacco received during that calendar week. The storage firm shall attach to the delivery receipts a transmittal memorandum showing:

(i) Transmittal number (numbered, beginning with number one, in sequence until all delivery receipts are transmitted for a marketing year);

(ii) Date of transmittal;

(iii) Number of delivery receipts submitted in transmittal; and

(iv) Total pounds on delivery receipts submitted by the transmittal.

(3) *Identification of tobacco while stored.* Each basket of tobacco until removal from storage, shall be identified by a basket ticket attached to the respective basket of tobacco showing the: (i) Farm operator's name and address; (ii) State and county code and farm number for the farm; and (iii) pounds of tobacco in each basket.

(4) *Storage firm reports.* The storage firm shall furnish to the State office of the State in which the business is located a report by storage location and crop year showing (i) the pounds of unprocessed tobacco, and (ii) the total pounds of unprocessed producer tobacco. Should any tobacco be moved from one storage location to another, an amended report shall be furnished by the end of the week in which such tobacco was moved. When tobacco is removed from storage, in addition to any other requirements of this subpart, the storage firm, by the end of the week in which such tobacco was removed from storage, shall furnish the State office a report showing by farm from which received:

(*a*) The pounds removed from storage;

(*b*) The name and address of the person receiving such tobacco; and

(*c*) Date on which removed.

(5) *Retention of records.* All records relating to the storage of producer tobacco including those required by this section shall be retained by the storage firm for three years following the removal of such tobacco for a respective crop year from storage.

Effective date.—October 25, 1973.

Signed at Washington, D.C., on October 19, 1973.

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

[FR Doc.73-22862 Filed 10-25-73;8:45 am]

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

[Lemon Regulation 610]

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 Oct. 28–Nov. 3, 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.

§ 910.910 Lemon Regulation 610.

(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 is steady, notwithstanding the Monday Holiday, for sizes 200's and 235's, is easier on 140's, and exceeds the limited supply of 115's and larger lemons. Sales volume is expected to decrease about 10 percent this week. Average f.o.b. price was $6.33 per carton the week ended October 20, 1973, compared to $6.73 per carton the previous week. Track and rolling supplies at 95 cars were down 21 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 regulation 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 preparing 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 October 23, 1973.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 28, 1973, through November 3, 1973, is hereby fixed at 185,000 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 October 25, 1973.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73-23002 Filed 10-25-73;12:08 pm]

[Grapefruit Regulation 56]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Limitation of Handling

This regulation fixes the quantity of Florida Interior grapefruit that may be shipped to fresh market during the weekly regulation period Oct. 29-Nov. 4, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 913. The quantity of grapefruit produced in the Interior District in Florida so fixed was arrived at after consideration of the total available supply of Florida Interior grapefruit, the quantity currently available for market, the fresh

market demand for Florida Interior grapefruit, Interior grapefruit prices, and the relationship of season average returns to the parity price for Florida grapefruit.

§ 913.356 Grapefruit Regulation 56.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Interior Grapefruit Marketing Committee, established under said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of Interior District grapefruit that may be marketed during the ensuing week stems from the production and marketing situation confronting the Interior District grapefruit industry. The committee has submitted its recommendation with respect to the total quantity of grapefruit which it deems advisable to be handled during the next succeeding week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the market for Florida Interior District grapefruit is steady. Average f.o.b. prices per ⅘ bushel carton were $2.70 for white seedless and $3.00 for pink seedless during the week ended October 21, 1973. Shipments for the week ended October 21, 1973, and for the previous week were 610 carlots and 535 carlots, respectively. On October 21, 1973, 10,753 carlots of Interior District grapefruit were remaining for interstate shipments while 1,497 carlots had been shipped to that date. Having considered the recommendation and information submitted by the committee, and other available information the Secretary finds that the quantity of grapefruit which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation 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 regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Interior grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, 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 Interior grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation 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 October 23, 1973.

(b) *Order.* (1) The quantity of grapefruit grown in the Interior District which may be handled during the period October 29, 1973 through November 4, 1973, is hereby fixed at 300,000 standard packed boxes.

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

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

Dated October 23, 1973.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73-22889 Filed 10-25-73;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FHA Instructon 441.2]

PART 1832—EMERGENCY LOANS

Subpart A—Emergency Loan Policies and Authorizations

Deletion of Provision Regarding Major Disasters

Section 1832.13 is deleted from Chapter XVIII of Title 7 of the Code of Federal Regulations (37 FR 7293). Section 232 of Public Law 91–606 concerning Emergency loans based on major disasters declared by the President on which this section was based was repealed by Public Law 93–24 signed into law by President Nixon on April 20, 1973.

(7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.)

Effective date.—This deletion shall become effective on October 26, 1973.

Dated October 3, 1973.

J. R. HANSON,
Acting Administrator, Farmers Home Administration.

[FR Doc.73-22788 Filed 10-25-73;8:45 am]

[FHA Instruction 441.4]

PART 1832—EMERGENCY LOANS

Subpart B—Emergency Loan Processing

LOAN FORMS AND ROUTINES

Subpart B of Part 1832, Title 7, Code of Federal Regulations, is amended by revising § 1832.32(j) to provide a system of identifying on certain loan documents the type of disaster that resulted in the applicant receiving his Emergency loan. No Emergency loan docket will be processed by the Finance Office which does not contain the appropriate disaster code on Form FHA 440–1, "Payment Authorization."

This revision is being published without notice of proposed rulemaking. It is an amendment of a rule of agency procedure of an internal nature, and therefore it is unnecessary to comply with the public participation requirements prescribed by 5 U.S.C. 553.

Effective date.—This amendment is effective on October 26, 1973.

As amended, § 1832.32(j) is revised to read as follows:

§ 1832.32 Loan forms and routines.

* * * * *

(j) *Form FHA 440–1, "Payment Authorization."*—(1) Only one Form FHA 440–1 will be prepared for the total amount of the loan regardless of the number of advances involved. This is also true when separate notes are prepared in accordance with paragraph (h)(1) of this section. The approval official will indicate his determination that the applicant is eligible and his approval of the loan by signing and dating the original in the space provided, and by inserting his title. In the "Type of Assistance" block insert "EM" and the authority under which the loan is approved as follows:

(i) *Major disaster areas.*—Initial and subsequent EM loans approved for applicants having qualifying losses from a major disaster in counties named as eligible for Federal assistance pursuant to a Presidential major disaster declaration will show the "Major Disaster Designation Number." The "Major Disaster Designation Number" will be assigned by the National Office at the time State Directors are authorized to receive applications. State Directors will immediately advise County Supervisors of the number. Example: EM–M421.

(ii) *Areas designated by the Secretary of Agriculture.*—Initial and subsequent EM loans approved for applicants having qualifying losses from a natural disaster in counties designated by the Secretary as an EM loan area will show the "Secre-

tarial Disaster Designation Number." The "Secretarial Disaster Designation Number" will be assigned by the National Office at the time State Directors are authorized to receive applications. State Directors will immediately advise County Supervisors of the number. Example: EM–A025.

(iii) *Areas where EM loans have been authorized by the State Director.*—Initial and subsequent EM loans approved for applicants having qualifying losses from a natural disaster in counties authorized by the State Director because of isolated severe production losses will show the "Isolated Production Loss Number." The "Isolated Production Loss Number" will be assigned by the National Office when the State Director gives prior notice of his intent to authorize EM loans. State Directors will immediately advise County Supervisors of the number. Example: EM–NO56.

(iv) *Subsequent EM loans.*—(A) Subsequent EM loans approved for borrowers having *new* qualifying losses from a subsequent major or natural disaster for which a "Major Disaster Designation Number," "Secretarial Disaster Designation Number," or "Isolated Production Loss Number" has been assigned will show the new appropriate disaster designation number. This number will be used for all subsequent EM loans unless the borrower has new qualifying losses from a different disaster for which another disaster designation number has been assigned.

(B) Subsequent EM loans approved for applicants who are indebted for EM loans where no "Major Disaster Designation Number," "Secretarial Disaster Designation Number," or "Isolated Production Loss Number" has been assigned will show "SO" and the last two numerals for the fiscal year the initial EM loan was approved. Example: EM–SO70.

(2) The Finance Office will process only EM dockets that are coded in accordance with paragraph (j)(1), (i), (ii), (iii), and (iv) of this section.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.)

Dated: October 3, 1973.

J. R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.73–22789 Filed 10–25–73;8:45 am]

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[AL 838(440)]

1890g—DAVIS-BACON AND RELATED ACTS

Semi-Annual Labor Compliance Report

Section 1890g.11 of Part 1890g, of Title 7 of the Code of Federal Regulations (35 FR 14442) is amended to delete the requirement that negative reports be made by the County Supervisor to the State Director concerning violations of prescribed labor standards provisions on Form FHA 440–29, "Semi-Annual Labor Compliance Report." Inasmuch as this amendment affects only an internal rule of Departmental procedure, notice of proposed rulemaking is unnecessary and will not be published in the FEDERAL REGISTER. As amended, § 1890g.11 reads as follows:

§ 1890g.11 Semiannual reports.

Each County Office having any activty to report under the provisions of this part should submit a report on Form FHA 440–29 to the State Director covering the periods January 1 through June 30 and July 1 through December 31, respectively. Form FHA 440–29 must reach the State Office by January 20 or July 20 as applicable.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.)

Effective date.—October 26, 1973.

Dated September 12, 1973.

J. R. HANSON,
Acting Deputy Administrator,
Farmers Home Administration.

[FR Doc.73–22787 Filed 10–25–73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

[Phase IV Price Ruling 1973–1]

PHASE IV PRICE RULINGS

Subpart L and Loss-Low Profit Rules

Facts. Company A is a firm consisting of the parent and four consolidated entities, engaged in certain manufacturing and wholesaling activities. Company A fully qualifies under § 150.201 to use the loss and low profit rules. However, the activities of the firm include the sale of petroleum products covered by the price rules of Subpart L of Part 150 and § 150.351(b) states that Subpart L supersedes the provisions of § 150.201 "with respect to sales and leases subject to this subpart."

Issue. Does the sale of covered petroleum products by Company A preclude the firm from utilizing the pricing provisions of the loss and low profit rule with regard to its activities which are not subject to Subpart L?

Ruling. No. Subpart L only supersedes the application of the loss and low profit rules "with respect to sales and leases subject to this subpart." This language is intended to insure that the prices charged for petroleum products are solely regulated by Subpart L and may not be adjusted to compensate for low profit margins. The language does not, however, prevent the application of the loss and low profit rules to a firm's other activities. A firm must still qualify for use of the loss and low profit rules on the basis of all of its activities, including sales of covered petroleum products. If it qualifies, the firm may then use the loss and low profit rules in determining the prices it may charge except for prices of covered petroleum products. The firm's activities with respect to covered petroleum products remain subject to the rules of Subpart L.

WILLIAM N. WALKER,
General Counsel,
Cost of Living Council.

OCTOBER 24, 1973.

[FR Doc.73–22985 Filed 10–25–73;10:48 am]

PART 152—COST OF LIVING COUNCIL PHASE IV REGULATIONS

Extension of Interim Rules Applicable to the Food Industry and Miscellaneous Changes

Part 152 is amended in Subpart H to extend the interim rules for reporting pay adjustments in the food industry and to make various technical and clarifying changes in the special rules applicable to the food industry.

Section 152.71 is amended to make clear that the small business exemption in § 152.41 is applicable to pay adjustments affecting employees in the food industry.

Section 152.72 is amended in paragraph (c) to include employees of mobile lunch wagons as described in Standard Industrial Classification Code 5963 among those employees not subject to the provisions of this subpart.

Section 152.74 is amended in paragraph (e) to eliminate the requirement of six-month prenotification with regard to nonbudgeted pay adjustments and to require further prenotification in the event that actual pay adjustments will exceed those pay adjustments initially prenotified.

Section 152.73 is amended in paragraph (a) and § 152.75 is amended in paragraphs (a), (b), and (c) to extend the interim rules through January 31, 1974.

On July 19, 1973, the Council extended the interim rules for reporting pay adjustments affecting employees in the food industry until November 1, 1973. In August and September of 1973, meetings were held by the Council in various cities throughout the country with representatives of the food industry, at which questions were raised concerning the prenotification requirements. In view of the concerns expressed in such meetings, the Council has determined that the objectives and goals of the Economic Stabilization Program can better be served by extending the period during which the interim rules shall be followed to January 31, 1974, and by delaying the general operation of the prenotification rules until February 1, 1974. Thus, for example, the operation of the prenotification rule in § 152.73(b) will be delayed in taking effect from November 1, 1973, until February 1, 1974, even with respect to prenotifications already received by the Council for pay adjustments scheduled

to be put into effect between those dates. Such pay adjustments are therefore subject to the rules of § 152.75 exclusively. Any prenotification of such a pay adjustment already filed will be treated as a report to the extent appropriate under the interim rules in § 152.75, and the pay adjustments so reported need not be reported again. However, no pay adjustment (except those described in § 152.75 (a)) may be implemented in excess of the general wage and salary standard unless specifically approved by the Council.

Because the immediate implementation of Executive Order No. 11730 is required, and because the purpose of these regulations is to provide immediate guidance as to Cost of Living Council decisions, the Council finds that publication in accordance with normal rule making 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 the General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Public Law 92-210, 85 Stat. 743; Public Law 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

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

PARAGRAPH 1. Part 152 of Title 6 of the Code of Federal Regulations is amended by revising § 152.71 to read as follows:

§ 152.71 Scope.

This subpart establishes special mandatory rules applicable to pay adjustments affecting employees in the food industry. This subpart does not apply to the pay adjustments of any manufacturer, service organization, wholesaler or retailer which both derives less than 20 percent of its annual sales or revenues from sales of food and less than $50 million of annual sales or revenues from sales of food. The small business exemption set forth in Subpart E of this part is applicable to pay adjutsments affecting employees in the food industry, with respect to work performed on and after September 12, 1973.

PAR. 2. Section 152.72 is amended by revising the introductory material in paragraph (c) to read as follows:

§ 152.72 Pay adjustments affecting employees in the food industry.

* * * * *

(c) On and after June 25, 1973, for purposes of paragraph (b) of this section, "Pay adjustments affecting employees in the food industry" does not include pay adjustments with respect to employees engaged on a regular and continuing basis in the operation of an eating place (described in Standard Industrial Classification Code 5812) or drinking place (described in Standard Industrial Classification Code 5813) or mobile lunch wagons (described in Standard Industrial Classification Code 5963) or in the rendering of administrative or support functions with respect to such operation, unless—

* * * * *

§ 152.73 [Amended]

PAR. 3. Section 152.73 is amended by deleting the date "November 1, 1973" in the introductory material in paragraph (b)(1) and by inserting in its place the date "February 1, 1974".

PAR. 4. Section 152.74 is amended by revising paragraph (e) to read as follows:

§ 152.74 Procedures for prenotification and reporting.

* * * * *

(e) *Individual increases.*—For purposes of §§ 152.73 and 152.75 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:

(1) *Prenotification for budgeted and nonbudgeted pay adjustments.*—If the pay adjustments for a control year are budgeted in advance of such control year, prenotification shall be submitted to the Council not less than 60 days prior to the first day of such control year, or as soon thereafter as the amount and timing of such proposed pay adjustments have been determined. If such pay adjustments are not budgeted in advance of a control year, prenotification shall be submitted to the Council not less than 60 days prior to the first day of such control year, or as soon thereafter as reasonable and supportable estimates of the amount and timing of pay adjustments anticipated or planned for during such control year can be provided. Such prenotification shall include such estimates and the grounds therefor.

(2) *Further prenotification.*—If an initial prenotification has been made and the amount of pay adjustments will be greater than that prenotified, further prenotification shall be submitted to the Council not later than 60 days prior to the pay adjustment which will cause the percentage amount for the entire employee unit involved to exceed the percentage amount initially prenotified.

(3) *Limitation on pay adjustments.*—The total of wage and salary increases put into effect during a control year in a unit for which prenotification has been submitted under the provisions of this paragraph shall at no time exceed the maximum permissible annual aggregate wage and salary increase which has been approved by the Council following such prenotification, or which has been permitted to be put into effect pursuant to the provisions of § 152.73(b).

* * * * *

PAR. 5. Section 152.75 is revised to read as follows:

§ 152.75 Interim rules for the period ending January 31, 1974.

(a) *Contracts and pay practices in existence prior to November 14, 1971.*—Notwithstanding the provisions of § 152.73, a pay adjustment scheduled to be put into effect after 9 p.m., e.s.t., March 29, 1973, and prior to February 1, 1974, 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 paragraph 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.

(b) *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 § 152.73, a pay adjustment scheduled to be put into effect prior to February 1, 1974, 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 paragraph (a) of this section, 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 paragraph shall be submitted to the Council not later than 10 days after such pay adjustment has been put into effect. Such report shall include pay adjustments actually made and any pay adjustments for which approval of the Council is required. A pay adjustment put into effect pursuant to the provisions of this paragraph 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 paragraph exceeds the general wage and salary standard (or exception), the provisions of § 152.73(a) shall continue to apply to the portion of such pay adjustments in excess of such standard (or exception).

(c) *Contracts and pay practices in existence after 9 p.m., e.s.t., March 29, 1973.*—Notwithstanding the provisions of § 152.73 a pay adjustment scheduled to be put into effect prior to February 1, 1974, under the terms of a contract or pay practice which is not within the provision of paragraph (a) or (b) of this section 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 paragraph shall be submitted to the Council not later than 10 days after such pay adjustment has been put into effect. Such report shall include pay adjustments actually made and any pay adjustments for which approval of the Council is required. A pay adjustment put into effect pursuant to the provisions of this paragraph 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 paragraph exceeds the general wage and salary standard (or exception), the provisions of § 152.73(a) shall continue to apply to the portion of such pay adjustments in excess of such standard (or exception).

(d) *Illustration.*—The reporting requirements set forth in paragraphs (b) and (c) of this section may be illustrated by the following example:

Example.—In November 1973, employer A negotiates a contract with Union B which calls for a 10 percent pay adjustment in the control year involved. Assuming there are no low wage employees in the appropriate employee unit, the parties must file with the Council not later than 10 days after the implementation of any permissible pay adjustment one Form PB–3 (or Form PB-3A, if appropriate) setting forth the entire negotiated pay adjustment. The submission must indicate the portion thereof which has been implemented. No pay adjustment under the contract may be implemented in excess of the general wage and salary standard unless specifically approved by the Council.

[FR Doc.73–22999 Filed 10–25–73;12:08 pm]

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 92]

IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE

Proposed Restrictions on Cattle From Mexico

Statement of considerations.—The purpose of this proposal is to prevent the introduction of cattle imported from Mexico into areas of the State of Texas which are under quarantine because of cattle fever ticks when such cattle have been exposed to splenetic, southern or tick fever, or have been affected with or exposed to fever ticks. This action is proposed on the basis that the introduction of cattle which may be piroplasmosis-carriers into areas under quarantine because of fever ticks where both fever ticks and susceptible cattle exist would increase the probability of outbreaks of piroplasmosis among susceptible animals in such areas.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to section 6 of the Act of August 30, 1890, as amended, section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 104, 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

In § 92.35, the introductory portion of paragraph (a)(2) would be amended to read:

§ 92.35 Cattle from Mexico.

(a) * * *

(2) Cattle which have been exposed to splenetic, southern or tick fever or which have been infested with or exposed to fever ticks, may be imported from Mexico into the State of Texas, except into areas quarantined because of said disease or tick infestation as specified in section 72.5 of Subchapter C of this chapter, provided the following conditions are strictly observed and complied with:

* * * * *

Any person who wishes to submit written data, views or arguments concerning the proposed amendment may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782 before November 26, 1973.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Center Building, 6505 Belcrest Road, Room 870, Hyattsville, Maryland 20782, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of October 1973.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.73-22859 Filed 10-25-73;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1464]

CIGAR TOBACCO

Notice of Advance Grade Rates for Price Support on 1973-Crop Tobacco

Notice is hereby given that CCC is considering the advance grade rates to be applied in making price support available on 1973-crop cigar tobacco.

Consideration will be given to data, views, and recommendations pertaining to the advance rates set out in this notice which are submitted in writing to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than November 26, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during the regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)).

Under the Tobacco Loan Program published June 18, 1970 (35 FR 10000), amended June 17, 1971 (36 FR 11634, 12509), and August 5, 1972 (37 FR 15856), CCC proposes to establish advance rates by grades for the 1973 crop Ohio filler tobacco, types 42–44, Connecticut Valley broadleaf tobacco, type 51, Connecticut Valley Havana seed tobacco, type 52, New York and Pennsylvania Havana seed tobacco, type 53, and Southern Wisconsin tobacco, type 54, Northern Wisconsin tobacco, type 55, and Puerto Rican tobacco, type 46, as set forth herein. These proposed rates, calculated to provide the level of support of 54.6 cents per pound for types 51–52, 41 cents per pound for type 46 and 39.5 cents per pound for types 42–44, 53–55, as determined under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445), are as follows:

§ 1464.22 1973 Crop—Ohio Filler Tobacco, Types 42–44, advance schedule.[1]

(Dollars per hundred pounds, farm sales weight)

Grade:	*Advance rate*
Crop run (stripped together):	
X1	40.50
X2	37.50
X3	34.50
X4	30.50
Nondescript:	
N	22.50

§ 1464.23 1973 Crop—Connecticut Valley Broadleaf Tobacco, Type 51, advance schedule.[2]

(Dollars per hundred pounds, farm sales weight)

Grade:	*Advance rate*
Binders:	
B1	75.00
B2	67.00
B3	58.00
B4	47.00
B5	42.00
Non-Binders:	
X1	36.00

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

[2] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

§ 1464.24 1973 Crop—Connecticut Valley Havana Seed Tobacco, Type 52, Advance Schedule.[1]

(Dollars per hundred pounds, farm sales weight)

Grade:	Advance rate
Binders:	
B1	70.00
B2	62.00
B3	55.00
B4	46.00
B5	42.00
Non-Binders:	
X1	36.00

§ 1464.25 1973 Crop—New York and Pennsylvania Havana Seed Tobacco, Type 53, and Southern Wisconsin Tobacco, Type 54, Advance Schedule.[2]

(Dollars per hundred pounds, farm sales weight)

Grade:	Advance rate
Crop-Run:	
X1	44.50
X2	40.00
X3	33.00
Farm Fillers:	
Y1	30.50
Y2	28.50
Y3	26.50
Nondescript:	
N1	27.00
N2	21.00

§ 1464.26 1973 Crop—Northern Wisconsin Tobacco, Type 55, Advance Schedule.[3]

(Dollars per hundred pounds, farm sales weight)

Grade:	Advance rate
Binders:	
B1	62.00
B2	57.00
B3	51.00
Strippers:	
C1	45.50
C2	40.50
C3	33.50
Crop-run:	
X1	45.00
X2	39.00
X3	31.00
Farm Fillers:	
Y1	34.50
Y2	31.00
Y3	29.00
Nondescript:	
N1	24.00
N2	18.00

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the growers $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

[2] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

[3] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

§ 1464.27 1973 Crop—Puerto Rican Tobacco, Type 46, Advance Schedule.[1]

(Dollars per hundred pounds, farm sales weight)

Grade:	Advance rate
Price Block I (C1F and C1P)	46.50
Price Block II (X1F, X1P and X1S)	40.00
Price Block III (X2T, X2F, X2P and X2S)	31.00
Price Block IV (N)	16.00

Effective date.—October 26, 1973.

Signed at Washington, D.C., on October 19, 1973.

GLENN A. WEIR,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.73-22863 Filed 10-25-73;8:45 am]

[1] The cooperative associations through which price support is made available to growers are authorized to deduct $1 per hundred pounds from the advances to growers to apply against overhead and handling costs. Tobacco is eligible for advance only if consigned by the original producer. No advance is authorized for tobacco graded "S" (scrap) or designated "No-G" (no grade).

Forest Service

[36 CFR Part 221]

TIMBER

Timber Export and Substitution Restrictions

Notice is hereby given that, pursuant to the authority vested in the Secretary of Agriculture by the Act of June 4, 1897, and pursuant to the provisions of section 301 of the Department of the Interior and Related Agencies Appropriations Act of 1974, it is proposed to revise Part 221 of Title 36, Code of Federal Regualtions as set forth herein. P.L. 93-120 prohibits the Agencies' use of appropriations after the date of enactment for any sale of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States or which will be used as a substitute for timber from private lands which has been or will be exported by the purchaser.

In the definition of unprocessed timber, logs are confined to those meeting utilization standards, and the maximum cant and square thickness is described differently. Some paragraphs in the present Regulation have been relettered.

The limitation does not apply to specific quantities and species of timber which the Secretaries (of Agriculture and the Interior) determine are surplus to domestic needs.

The regulation in this section shall apply to timber settlements made pursuant to § 221.29 and to timber sales, including those set aside under the Small Business Act.

Section 221.25 is revised to read as follows:

§ 221.25 Timber export and substitution restrictions.

(a) Unless restricted as provided in this section or unless it is determined by the Secretary of Agriculture that the supply of timber for local use is endangered, timber lawfully cut on any National Forest may be exported from the State where grown to any other State for processing. As used in this paragraph, "supply of timber for local use" means the supply of timber necessary for consumption by local users.

(b) Unprocessed timber as defined in paragraph (c), purchased from National Forest System lands located west of the 100th meridian in the contiguous 48 states may not be exported from the United States nor used as a substitute for timber from private lands exported, directly, or indirectly, by the purchaser or his affiliates. The above limitations on export and substitution do not apply to species of timber previously found to be surplus to domestic needs or to additional species or quantities of timber found by the Secretary of Agriculture after public hearing to be surplus to domestic needs.

(c) As used in this section, the term "unprocessed timber" shall mean: Any logs such as sawlogs, peeler logs, and pulplogs meeting utilization standards; cants and squares to be subsequently remanufactured exceeding 8¾ inches in thickness; and split or round bolts, or other roundwood not processed to standards and specifications suitable for end-product use. Unprocessed timber shall not mean timber processed into the following:

(1) Lumber and construction timbers, regardless of size, manufactured to standards and specifications suitable for end-product use;

(2) Chips, pulp, and pulp products (except that, in Alaska, chips from logging and milling wastes only shall be considered to be processed);

(3) Green veneer and plywood;

(4) Poles and piling cut or treated for use as such;

(5) Cants, squares, and lumber cut for remanufacture, 8¾ inches in thickness or less.

(d) As used in this section, timber, either from National Forest System lands or from private lands, is exported directly when exported by the National Forest timber purchaser, his subsidiary, subcontractor, parent company, joint venture partner, or any other affiliate. Business entities are considered to be affiliates when one controls or has the power to control the other or when both are controlled by a third entity. Timber is exported indirectly when the purchaser or his affiliate sells it to another person for the purpose of exporting it.

(e) (1) As used in this section, purchase of timber from National Forest System lands will constitute substitution when the purchaser or his affiliate, on or after the effective date of this regulation, has directly or indirectly exported comparable timber from private lands located not more than 200 miles from any plant in which the National Forest timber will be or is being processed. The distance will be determined via roads, railroads, and/or water on routes customarily used to transport the forest products.

(2) As used herein, comparable timber is any forest product considered as standard timber under the terms of the National Forest timber sale contract.

(f) To be eligible to bid on a sale of timber from National Forest System lands west of the 100th meridian in the 48 contiguous States, a bidder must:

(1) Certify that purchase of the timber will not constitute substitution as defined in paragraph (e) of this section;

(2) Agree to furnish to the Forest Service, prior to beginning operations under the contract, a list of names and locations of manufacturing or processing plants to which the timber is to be delivered and to describe the timber to be delivered to each.

(3) Agree to make his records of exporting activities within the 200 mile area around each listed plant available to the Forest Service upon request.

For false certification the Forest Service may cancel the contract, debar the purchaser from bidding on Federal timber and impose such other penalties as may be provided by laws or regulations.

(g) Contracts for sales of unprocessed timber from National Forest System lands as described in paragraph (b) of this section, entered into after the effective date of this regulation and prior to June 30, 1974, shall, with respect to the timber covered by said contracts, prohibit the purchaser from exporting said timber or selling it for export and from substituting said timber for timber which the purchaser has exported or sold for export from private lands or from selling timber to others to use in substitution for timber they had exported or sold for export from private lands, except that these limitations will not apply to species of timber previously found surplus to domestic needs and additional species or quantities of timber found by the Secretary of Agriculture, after public hearing, to be surplus to domestic needs. Where appropriate, contracts shall include:

(1) Restrictions on the export of unprocessed timber or the use of said timber in substitution of timber exported from private land, including a provision that before the purchaser sells, exchanges, or otherwise disposes of the included timber restricted from export, the purchaser shall require his buyer, exchangee, or other recipient to enter into an agreement not to export unprocessed timber as defined in this section or to use said timber in substitution for timber exported from private land.

(2) Requirements for showing compliance with the timber export restrictions and exemptions and the restrictions against using said timber in substitution for timber exported from private land;

(3) The quantities and species of unprocessed timber, if any, which may be exported.

(h) No specific quantities and additional species of unprocessed timber may be sold for export as surplus to domestic needs unless: A public hearing is authorized by the Secretary of Agriculture and is held to seek advice and counsel as to the quantities and species of unprocessed timber, if any, surplus to the needs of domestic users and processors; and a determination is made by the Secretary of Agriculture that the specific quantities and species of unprocessed timber are surplus to the needs of domestic users and processors. The Secretary of Agriculture shall give notice in the Federal Register of the quantities and species of unprocessed timber which are determined to be surplus. Hearings will be conducted in accordance with the following procedures:

(1) Notice will be published in a newspaper of general circulation within the area of the specific quantities and species under consideration at least 15 days prior to the hearings, and known parties or organizations with special interest in the quantities and species should be notified directly.

(2) The time, place, and conduct of the hearing will be coordinated with the Department of the Interior and held at a convenient, centralized location within the area of the specific quantities and species under consideration.

(3) The hearing record shall remain open for at least 5 calendar days following the hearing for receipt of additional written statements.

(i) Subject to the other provisions of this section, timber cut from the National Forests in the State of Alaska may not be exported from Alaska in the form of logs, cordwood, bolts, or other similar products necessitating primary manufacture elsewhere without prior consent of the Regional Forester. This requirement is determined to be necessary in order to assure the development and continued existence of adequate wood processing capacity in that State essential to the sustained utilization of timber from the National Forests located therein which is geographically isolated from other processing capacity. In determining whether consent will be given to the export of such timber, consideration will be given, among other things, to whether such export will (1) permit a more complete utilization of material on areas being logged primarily for products for local manufacture, (2) prevent loss or serious deterioration of logs unsaleable locally because of an unforeseen loss of market, (3) permit the salvage of timber damaged by wind, insects, or fire, (4) bring into use a minor species of little importance to local industrial development, or (5) provide material required to meet national emergencies or to meet urgent and unusual needs of the Nation.

(30 Stat. 34, 35 as amended; 16 U.S.C. 476, 551; P.L. 93-120 Ocober 4, 1973.)

All persons who wish to submit written data, views, or objections pertaining to the proposed amendment may do so by submitting them to the Department of Agriculture, Forest Service, Division of Timber Management, South Agriculture Building, Room 3207, Washington, D.C. 20250 on or before December 26, 1973.

All written submissions made pursuant to this notice will be available for public inspection in the Division of Timber Management during regular business hours (7 CFR 1-27 (b)).

ROBERT W. LONG,
Assistant Secretary for Conservation, Research, and Education.

OCTOBER 23, 1973.

[FR Doc.73-22864 Filed 10-25-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

MONTANA PLAN

Revised Developmental Schedule

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter referred to as the Act) by which the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order 12-71, 36 FR 8754, May 12, 1971) will review changes in a State plan which has been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On December 6, 1972, notice was published in the Federal Register (37 FR 25929) of the approval of the Montana Plan and the adoption of Subpart B to Part 1952 containing this decision. Section 1952.53 of Subpart B sets forth the developmental schedule under which the plan will meet the criteria of section 18(c) of the Act and Part 1902 within three years following commencement of the plan's operations. By letter of June 12, 1973, to John H. Stender, Assistant Secretary of Labor for Occupational Safety and Health, Governor Thomas L. Judge expressed his continuing interest in the plan and his intention to proceed with the developmental program. By letter dated June 20, 1973, from Lawrence M. Zanto, Administrator of the Workmen's Compensation Division of the State of Montana, to Thomas C. Brown, Director of Federal and State Operations, Occupational Safety and Health Administration, incorporated as part of the plan, the State has submitted a supplement to the plan containing a revised developmental schedule. The revised schedule provides for additional consideration of enabling legislation during the 1974 legislative session, an estimated effective date for the enforcement program of September 1974, and related changes. Pursuant to 29 CFR 1953.11(d) (1) preliminary examination discloses no cause for rejecting this supplement and its approval is under consideration.

2. *Location of supplement for inspection and copying.* A copy of the supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210; Office of

the Assistant Regional Director, Occupational Safety and Health Administration, Room 15010, Post Office Box 3588, 1961 Stout Street, Denver, Colorado 80202; and the Office of the Montana State Department of Labor and Industry, Workmen's Compensation Division, Room 3, 815 Front Street, Helena, Montana 59601.

3. *Public participation.* Interested persons are hereby given until November 26, 1973 in which to submit written data, views, and arguments concerning the supplement. Such data, views, and arguments should discuss whether, in the context of the entire plan, there are reasonable expectations that the plan will meet the requirements of the Act and the criteria in Part 1902 within the three year developmental period. General comments unrelated to the revised developmental schedule are not appropriate. The submissions are to be addressed to the Director, Office of Federal and State Operations, Room 305, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210, and will be available for inspection and copying at this address.

Any interested person(s) may request an informal hearing concerning the proposed supplement, whenever particularized written objections thereto are filed within the time allowed for comments specified above. If, in the opinion of the Assistant Secretary, substantial objections which warrant further public discussion are filed, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall thereafter consider all relevant comments and arguments and issue his decision as to approval or disapproval of the supplement and proposed amendment of Subpart B and its effect on the continued approval of the plan.

In accordance with the above, it is proposed to amend § 1952.53, Subpart B of Part 1952 to read as follows:

§ 1952.53 Developmental schedule.

The Montana Plan is developmental. The schedule of developmental steps as described in the plan is revised in a letter dated June 20, 1973, from Lawrence M. Zanto, Administrator of the Workmen's Compensation Division of the State of Montana to Thomas C. Brown, Director of Federal and State Operations, Occupational Safety and Health Administration, and includes:

(a) Expected enactment of the enabling legislation by March 1974.

(b) Public hearings on the adoption of Federal standards to be commenced by September 1973, in accordance with existing State law.

(c) Formation of MOSHA Review Commission by July 1974.

(d) Formal adoption of Federal standards and revocation of existing Montana State standards by September 1974.

(e) Formal adoption of 29 CFR Parts 1903, 1904, and 1905 as rules and regulations of Montana by September 1974.

(f) Effective date of new standards; commencement of State enforcement by September 1974.

(Secs. 8(g), 18, Pub. L. 91-596, 84 Stat. 1600, 1608, (29 U.S.C. 657(g), 667).)

Signed at Washington, D.C., this 18th day of October 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc.73-22867 Filed 10-25-73;8:45 am]

DELAWARE RIVER BASIN COMMISSION

[18 CFR Part 401]

WATER QUALITY AND FISCAL YEAR BUDGET

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, October 31, 1973, in Room 603, City Hall Annex, Juniper and Filbert Streets in Philadelphia, Pa., beginning at 2 p.m. The subjects of the hearing will be as follows:

A. Water Quality Regulations. A proposal to amend the Commission's Basin Regulations-Water Quality and Rules of Practice and Procedure relating to water pollution abatement schedules. The Federal Water Pollution Control Act Amendments of 1972 provide for a national waste discharge permit system to be administered by the states or the federal Environmental Protection Agency. Some aspects of the Commission's water quality regulations that relate to the administration of water pollution abatement schedules have been duplicated by this new federal legislation and regulations issued pursuant thereto by the Environmental Protection Agency. It is now proposed to amend certain sections of the Commission's regulations and rules so as to eliminate duplication and overlap of responsibilities by the Commission and the water pollution abatement agencies of the signatory parties. Text of the proposed amendments are as follows:

1. Section 3-4.1 of the Basin Regulations-Water Quality (Administrative Manual, Part III) is amended to read as follows:

The Standards will be enforced with respect to effluent quality requirements in accordance with this Article. [a schedule to be adopted by the Commission.] It is intended that such enforcement procedures will be administered with due recognition of the laws and requirements of the signatory parties, and with the utilization to the maximum practical extent of the functions, powers, and duties of water pollution control agencies of the signatory parties [and] in accordance with administrative agreements which may be entered into by and between the Commission and such agencies.

2. Section 3-4.2 of the Basin Regulations-Water Quality (Administrative Manual, Part III) is repealed and a new Section 3-4.2 is inserted in lieu thereof to read as follows:

(a) Abatement schedules approved by the Commission prior to October 1, 1973, shall be referred to the appropriate agency of the signatory parties, respectively, for all further proceedings. On and after October 1, 1973, each discharger shall comply with the requirements for an abatement schedule under the laws and regulations of the appropriate signatory party.

(b) A copy of each abatement schedule and permit, and any revision or amendment thereof, shall be promptly filed with the Commission by the agency of the signatory party issuing it.

(c) Each agency of a signatory party which issues or approves an abatement schedule or a discharge permit relating to waters of the basin shall provide for the use of the Commission an annual report of such actions including the progress of abatement measures thereunder, in such form as the Executive Director may request.

3. Section 3-4.3 of the Basin Regulations-Water Quality (Administrative Manual, Part III) is repealed and a new Section 3-4.3 is inserted in lieu thereof to read as follows:

3-4.3 *Waste load allocations.* Waste load allocations will be made by the Executive Director in accordance with these regulations. Every allocation shall be met: (i) by an existing waste treatment facility, or (ii) in accordance with an abatement schedule duly adopted and approved by a signatory party, with respect to an existing project, and (iii) at all times with respect to a new project.

4. Section 2-3.14 of the Rules of Practice and Procedure (Administrative Manual, Part II) is repealed and a new Section 2-3.14 is inserted in lieu thereof to read as follows:

2-3.14 *Water quality certifications.*

(a) The Commission will rely upon the respective signatory parties for the issuance of certifications of publicly or privately-owned waste treatment works under Section 401 of the Federal Water Pollution Control Act Amendments of 1972.

(b) In all other cases a certificate under said Section 401 may be issued by the Executive Director following appropriate findings and determinations after public notice and hearing (if any) by the Director or the Commission, as the case may be.

B. Fiscal Year 1975 Budget. A proposed fiscal year 1975 budget in the total amount of $1,748,000, made up of a current expense budget of $1,721,000 and a capital budget of $27,000. Copies of a summary of the proposed budget are available from the Commission Secretary upon request.

C. A proposal to amend the Comprehensive Plan so as to include therein the following projects:

1. West Goshen Sewer Authority. Rerating of the Authority's existing sewage treatment plant in West Goshen Township, Chester County, Pa., to provide total capacity of 2.5 million gallons per day. Treatment will provide removal of 85 percent of BOD. Effluent will discharge to Goose Creek, a tributary of Chester Creek.

2. Borough of Ambler. A well water supply project to augment public water supplies serving the Borough of Ambler and adjacent municipalities in Montgomery County, Pa. Designated as Well No. 11, the new facility is expected to yield about 300,000 gallons per day that will replace an existing water supply that

had to be abandoned because of contamination.

3. Lake Louise Marie Water Co., Inc. An expansion of an existing water supply system serving the recreational development known as Emerald Green in the towns of Thompson and Mamakating, Sullivan County, N.Y. Several new wells will be located along the west shore of Davies Creek and are expected to yield a total of one million gallons per day.

4. Allentown Authority. A project to expand the capacity of the existing sewage treatment plant serving the City of Allentown and several adjacent municipalities in Lehigh County, Pa. The capacity of the treatment facility will be increased to 40 million gallons per day and will provide removal of 90 percent of BOD_5. Treated effluent will continue to discharge to the Lehigh River.

5. Borough of Quakertown. A project to expand the existing sewage treatment plant of the Borough of Quakertown, Bucks County, Pa. The treatment capacity will be increased to 2.3 million gallons per day and provide removal of 95 percent of BOD_5. Treated effluent will continue to discharge to Tohickon Creek.

6. Buckwalter Farms Community Association. A sewage treatment project to serve the Buckwalter Farms and Valley Meade developments in Limerick Township, Montgomery County, Pa. The treatment facility will have a capacity of 75,000 gallons per day and provide removal of 90 percent of BOD_5 and suspended solids. Treated effluent will discharge into Mingo Creek, a tributary of the Schuylkill River.

7. Upper Montgomery Joint Authority. Expansion of the Authority's existing sewage treatment plant serving Upper Hanover Township and adjacent municipalities in Montgomery County, Pa. Capacity of 1.4 million gallons per day will be provided and treatment will remove approximately 94 percent of BOD_5. Treated effluent will discharge into Green Lane Reservoir on Perkiomen Creek.

D. A proposal to approve the following water pollution abatement schedule as submitted in accordance with Section 3-4.2(2) of the Basin Regulations-Water Quality:

Air Products and Chemicals, Inc. (A-71-16—second revision). An allocation of 65 pounds per day of carbonaceous (first-stage) oxygen demand has been made for this facility located in Paulsboro, N.J., and discharging into Zone 4 of the Delaware Estuary. An abatement schedule was aproved on May 27, 1971, that permitted participation in the Deepwater Preliminary Engineering and Pilot Plant Studies Program. Upon determination that the facility would not be included in a Deepwater Regional System, the company submitted a revision which set the date for full compliance at March 1974. The revision was approved by the Commission on November 8, 1972, as Docket No. A-71-16—revision. The company has reported that due to interrelated air and wastewater pollution problems at the plant, an extension of the present abatement program is needed. The proposed revision sets the date for full compliance at July 31, 1974.

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.

OCTOBER 17, 1973.

[FR Doc.73-22756 Filed 10-25-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

ALABAMA

Proposed Revision to State Implementation Plan

On May 31, 1972 (37 FR 10842), and on June 22, 1973 (38 FR 16555), the Administrator approved the Alabama plan to attain and maintain the national ambient air quality standards.

Subsequent to this action and pursuant to an order of the U.S. Court of Appeals for the District of Columbia Circuit in the case of Natural Resources Defense Council, Inc., et al. v. EPA, case No. 72-1522, and seven related cases, the Administrator promulgated on June 18, 1973 (38 FR 15834), additional implementation plan requirements relative to the maintenance of the national ambient air quality standards.

To satisfy these new requirements, the State of Alabama held public hearings on September 10, 11, and 12, 1973, and adopted an implementation plan revision pertaining to the review of new or modified indirect sources of air pollution. The Alabama plan revision which was submitted to the Administrator on September 27, 1973, expands the existing State permit system and requires that the following source categories seek and obtain a permit prior to commencing construction:

(a) For parking facilities located in counties with a population of greater than 200,000:

(1) New parking facilities with a capacity of greater than 1,000 spaces, or

(2) Modifications to existing parking facilities that will increase capacity by 500 spaces or more.

(b) In parking facilities located in counties with a population of less than 200,000:

(1) New parking facilities with a capacity of greater than 2,000 spaces, or

(2) Modifications to existing facilities that will increase capacity by 1,000 spaces or more.

(c) For other sources regardless of location:

(1) Any new roadway or modification to an existing roadway whose projected traffic volume within 10 years of completion will be greater than 2,000 vehicles per hour;

(2) Any new airport that would be expected to have greater than 50,000 scheduled commercial landings per year or any modification to an existing airport that would be expected to cause an increase of 50,000 scheduled commercial landings per year.

The State proposes to issue permits only after the applicant provides information adequate to show that construction of the facility will not indirectly interfere with the attainment and maintenance of the national ambient air quality standards.

Copies of the proposed plan revision submitted by Alabama will be available for public inspection during normal business hours at the following locations:

Air Programs Branch
Environmental Protection Agency
Region IV
1421 Peachtree Street NE.
Atlanta, Georgia 30309

State of Alabama Air Pollution Control Division
Air Pollution Control Commission
645 South McDonough Street
Montgomery, Alabama 36104

Interested persons are encouraged to submit written comments on the proposed plan revision. These comments will be weighed carefully by EPA before the Agency decides to approve or disapprove the revision in question. Comments will be accepted during a 30-day period beginning with the date of this publication. They should be addressed to the Director, Air and Water Programs Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309, Attention: Mr. Helms. Receipt of comments will be acknowledged, but no substantive response will be made.

(42 U.S.C. 1857c-5.)

Dated October 19, 1973.

JOHN QUARLES,
Acting Administrator.

[FR Doc.73-22855 Filed 10-25-73;8:45 am]

ARIZONA

Opportunity for Public Comment on Proposed Transportation and/or Land-Use Control Strategies

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for implementation of the national ambient air quality standards. In the preamble to the May 31 approval/disapproval of implementation plans, the Administrator noted that where the adoption of transportation and/or land-use control schemes were necessary to achieve the national standards for carbon monoxide and photochemical oxidants, submittal of those control strategies could be deferred until February 15, 1973. This was done because of the general lack of information and practical experience necessary to permit the development of meaningful transportation control schemes.

On January 31, 1973, the United States Court of Appeals for the District of Columbia Circuit decided the case of *Natural Resources Defense Council, Inc., et al.* v. *Environmental Protection Agency* (Civil Action No. 72-1522) and seven related cases. The court ordered the Administrator to cancel 2-year extensions which had been granted for the attainment of the carbon monoxide and photochemical oxidants standards where

transportation controls would be necessary and to require States to submit transportation control plans on April 15, 1973. States were notified of this court decision by telegram from the Administrator and in the FEDERAL REGISTER of March 20, 1973 (38 FR 7323).

On April 11, 1973, the State of Arizona submitted a proposed implementation plan control strategy to the Administrator pursuant to section 110 of the Clean Air Act. Control strategies to achieve the national ambient air quality standards for carbon monoxide and photochemical oxidants in the Phoenix-Tucson intrastate region were contained in the plan. The Administrator's decision to approve or disapprove the plan is based on whether it meets the requirements of section 110(a)(2) (A)–(E) of the Act and EPA regulations in 40 CFR Part 51.

The Administrator's decision to partially approve the Arizona plan submitted on April 11, 1973, was announced in the FEDERAL REGISTER of June 22, 1973 (38 FR 16550). The control strategy for hydrocarbons was approved, since that strategy would be implemented prior to 1975 and would show attainment of the photochemical oxidant standard. The control strategies for carbon monoxide were disapproved because (1) they did not show attainment in terms of EPA policy on applicability and effectiveness of retrofit devices and (2) the requirements for obtaining an extension were not satisfied, namely, reasonably available alternative measures must be considered and applied, and reasonable interim measures must be employed.

Since the Administrator disapproved the Arizona control strategies for carbon monoxide, the Administrator is required, under section 110(c) of the Act, to propose and subsequently promulgate regulations setting forth a substitute portion of such plan. Proposed regulations for the attainment and maintenance of the national standards for carbon monoxide were proposed by the Administrator in the FEDERAL REGISTER of July 16, 1973 (38 FR 18942). Public hearings were held on the proposed regulations in Tucson on September 10–11, 1973, and in Phoenix on September 12–13, 1973. The Administrator is required by order of the Court of Appeals for the District of Columbia, resulting from the aforementioned NRDC vs. EPA case, to promulgate regulations on October 15, 1973.

Governor Williams of the State of Arizona submitted a revised implementation plan control strategy on September 11, 1973, to achieve the national standards for carbon monoxide in the Phoenix-Tucson intrastate region. The original plan submitted on April 11, 1973, was revised and replaced by the September 11, 1973, submittal. Governor Williams has requested a two-year extension for achieving the primary standards for carbon monoxide and acknowledged that reasonable interim control measures must be adopted in order to gain approval of the requested extension. Information pertinent to these interim strategies is not contained in the revised plan but was submitted, subsequently, on September 21 and October 2, 1973. The control strategy submitted to EPA includes provisions for mandatory inspection and maintenance on all vehicles, the use of retrofit devices on pre-1976 light-duty vehicles, and conversion of 10,000 vehicles to liquid petroleum gasoline. The alternative or interim strategies submitted include carpool incentives, upgrading of public transportation systems, parking restrictions, and traffic flow improvements for Metropolitan Phoenix and Tucson. The Governor noted that an additional strategy proposed in the initial plan for control of hydrocarbon emissions was found to no longer be required and was deleted from the revised plan.

This notice is issued to advise the public that revised implementation plan control strategies for carbon monoxide in the Phoenix-Tucson intrastate region have been received by EPA. Comments may be submitted on whether those proposed control strategies should be approved or disapproved by the Administrator as required by section 110 of the Clean Air Act. Public comment is also solicited on whether the Governor's request for an extension of time for meeting the primary standards should be granted by the Administrator. Comments received on or before November 16, 1973, will be considered. Copies of the proposed control strategy are available for public inspection during normal business hours at the Library of the Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California, and in the office of the State of Arizona Division of Air Pollution Control at 1740 West Adams Street, Phoenix, Arizona. Additional copies are available in the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C., and the Pima County Air Pollution Control Division, 151 West Congress, Tucson, Arizona. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111.

Dated October 18, 1973.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.73-22851 Filed 10-25-73;8:45 am]

FLORIDA

Proposed Revisions to State Implementation Plan

On May 31, 1972 (37 FR 10858), pursuant to section 110 of the Clean Air Act, the Administrator approved the Florida plan to attain and maintain the national ambient air quality standards. Subsequent to this action and pursuant to an order of the U.S. Court of Appeals for the District of Columbia Circuit in the case of Natural Resources Defense Council, Inc., et al. v. EPA, case No. 72-1522, and seven related cases, the Administrator promulgated on June 18, 1973 (38 FR 15834), additional implementation plan requirements relative to the maintenance of the national ambient air quality standards.

To satisfy these new requirements, the State of Florida held a public hearing on September 24, 1973, and adopted implementation plan revisions pertaining to the review of new or modified indirect sources of air pollution. These Florida plan revisions which were submitted to the Administrator on September 25, 1973, expand the existing State permit system and require that the following source categories seek and obtain a permit prior to commencing construction:

1. New or modified unenclosed parking facilities which will have a design or use capacity of 1,500 or more motor vehicles;
2. New or modified multi-level parking facilities which will have a design or use capacity of 750 or more motor vehicles;
3. In the Counties of Dade, Broward, Palm Beach, Brevard, Hillsborough, Pinellas, Orange, Duval, Escambia, Polk, Leon, Sarasota, Volusia and Alachua, new or modified roads that will accommodate 1,000 or more motor vehicles per hour at peak traffic flow. In all other areas of the State, new or modified roads that will accommodate 2,000 or more motor vehicles per hour at peak traffic flow;
4. All major tollways, interstate roads, and major roads of more than two lanes not covered in 3;
5. Any new or modified airport with regularly scheduled or other commercial air traffic.

The State proposes to issue permits only after the applicant provides information adequate to show that construction of the facility will not indirectly interfere with the attainment and maintenance of the national ambient air quality standards.

Copies of the proposed plan revisions submitted by Florida will be available for public inspection during normal business hours at the following locations:

Air Programs Branch
Environmental Protection Agency
Region IV
1421 Peachtree St. NE.
Atlanta, Georgia 30309

Florida Department of Pollution Control
2562 Executive Center Circle East
Montgomery Building
Tallahassee, Fla. 32301

Interested persons are encouraged to submit written comments on the proposed plan revisions. These comments will be weighed carefully by EPA before the agency decides to approve or disapprove the revisions in question. Comments will be accepted on or before November 26, 1973. They should be addressed to the Director, Air and Water Programs Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309, Attention: Mr. Helms. Receipt of comments will be acknowledged, but substantive response will not be made.

(42 U.S.C. 1857c-5.)

Dated October 19, 1973.

JOHN QUARLES,
Acting Administrator.

[FR Doc.73-22854 Filed 10-25-73;8:45 am]

SOUTH CAROLINA

Proposed Revisions to State Implementation Plan

On May 31, 1972 (37 FR 10842), and on October 28, 1972 (37 FR 23085), the Administrator approved South Carolina's plan to attain and maintain the national ambient air quality standards. Because the State failed to submit all the necessary compliance schedules by the required date, EPA proposed on June 20, 1973 (38 FR 16171), and promulgated on August 23, 1973 (38 FR 22736), Federal categorical compliance schedules for the sources located within the State.

To resolve its compliance schedule deficiencies, the State, after a public hearing held on July 16, 1973, deleted from its implementation plan Regulation No. 4A of the Air Pollution Control Regulations and Standards for the State of South Carolina and replaced it with a categorical compliance schedule regulation containing periodic increments of progress. The eight source categories covered by the new regulation are cotton gins, fuel burning operations, hot mix asphalt plants, mining and quarrying operations, incinerators, primary and secondary metals plants, pulp and paper manufacturing plants, and sulfuric acid manufacturing plants. This new regulation was submitted to EPA as a proposed plan revision on August 16, 1973.

Also on August 16, 1973, South Carolina submitted to EPA the following proposed plan revisions: (1) Changes of wording which update and correct existing deficiencies in current regulations and standards by means of minor substitutions, deletions and additions; (2) the addition of a new regulation dealing with hazardous conditions and requiring the owners or operators of any source to take necessary steps to protect human health and welfare and to make proper notification when hazardous materials have been released; and (3) the addition of a requirement that an operating permit be obtained in addition to construction permits which were previously required.

None of these proposed revisions adversely affects the attainment of the national ambient air quality standards.

Copies of the proposed plan revisions submitted by South Carolina will be available for public inspection during normal business hours at the following locations:

Air Programs Branch
Environmental Protection Agency
Region IV
1421 Peachtree Street NE.
Atlanta, Georgia 30309

South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Interested persons are encouraged to submit written comments on any proposed plan revision. These comments will be weighed carefully by EPA before the agency decides to approve or disapprove the revisions in question. Comments will be accepted on or before November 26, 1973. They should be addressed to the Director, Air and Water Programs Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309, Attention: Mr. Helms. Receipt of comments will be acknowledged, but substantive response will not be made.

(42 U.S.C. 1857c-5.)

Dated October 19, 1973.

JOHN QUARLES,
Acting Administrator.

[FR Doc.73-22853 Filed 10-25-73;8:45 am]

TENNESSEE

Proposed Revision to the State Implementation Plan

On May 31, 1972 (37 FR 10842), on October 28, 1972 (FR 23805), and on August 23, 1973 (38 FR 22748), the Administrator approved the Tennessee plan to attain and maintain the national ambient air quality standards. The State now proposes to revise its approved plan by substituting in it a revised and updated version of the Chattanooga-Hamilton County air pollution control regulations. This proposed plan revision was submitted to EPA on July 18, 1973, and had already received a public hearing.

The major features of the proposed revision are as follows:

1. Emissions limiting regulations would be added for the control of nitrogen oxide.
2. A greater degree of control would be required for incinerators, but the final compliance date for this category of sources would be extended one year to July 1, 1975.
3. Existing restrictions on visible emissions from diesel engines would be relaxed from zero to 20 percent opacity.
4. Regulations designed to govern sulfur oxides emissions on the basis of ground level concentrations would be deleted.

None of these changes would adversely affect the attainment of the national ambient air quality standards.

Copies of the plan revision submitted by Tennessee will be available for public inspection during normal business hours at the following locations:

Air Programs Branch
Environmental Protection Agency
Region IV
1421 Peachtree St. NE.
Atlanta, Ga. 30309

Division of Air Pollution Control
Tennessee Department of Public Health
Cordell Hull Building, C2-212
Nashville, Tenn. 37203

Chattanooga-Hamilton County Air Pollution Control Bureau
City Hall Annex, Room 201
Chattanooga, Tenn. 37402

Interested persons are encouraged to submit written comments on the proposed plan revision. These comments will be weighed carefully by EPA before the agency decides to approve or disapprove this change in the Tennessee plan. Comments will be accepted on or before November 26, 1973. They should be addressed to the Director, Air and Water Programs Division, Environmental Protection Agency, Region IV, 1421 Peachtree St. NE., Atlanta, Ga. 30309, Attention: Mr. Helms. Receipt of comments will be acknowledged, but no substantive response will be made.

(42 U.S.C. 1857c-5.)

Dated October 19, 1973.

JOHN QUARLES,
Acting Administrator.

[FR Doc.73-22856 Filed 10-25-73;8:45 am]

APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Tennessee Proposed Revision to State Implementation Plan

On May 31, 1972 (37 FR 10842), on October 28, 1972 (37 FR 23805), and on August 23, 1973 (38 FR 22748) pursuant to Section 110 of the Clean Air Act the Administrator approved the Tennessee plan to attain and maintain the national ambient air quality standards. Tennessee now proposes to revise its approved plan by amending Chapter 4 of the Air Pollution Control Ordinances of the Metropolitan Government of Nashville and Davidson County, which make up a portion of the Tennessee plan. This plan revision received a public hearing and was subsequently adopted by Tennessee and submitted to EPA on July 30, 1973. The purpose of the revision is to bring these local air pollution control regulations into accord with the requirements of the Environmental Protection Agency and with those of the State.

The following additions, corrections, and deletions were made in the document in question:

1. Definition of additional terms and of terms previously omitted.
2. Changes in the regulations dealing with visible emissions, open burning, incinerators, fuel burning equipment, internal combustion engines, process emissions, fugitive dust and the allowable sulfur content of fuels.
3. Deletion of the section prohibiting hand-fired fuel burning equipment.
4. Amendment of the section on the measurement of pollutants.
5. Revision of test procedures to include EPA's.

Copies of the proposed plan revision submitted by Tennessee will be available for public inspection during normal business hours at the following locations:

Air Programs Branch
Environmental Protection Agency
Region IV
1421 Peachtree St. NE.
Atalnta, Ga. 30309

Division of Air Pollution Control
Tennessee Department of Public Health
Cordell Hull Building, C2-212
Nashville, Tenn. 37203

Air Pollution Control Division
Metropolitan Health Department of Nashville and Davidson County
311 23d Avenue
Nashville, Tenn. 37203

Interested persons are encouraged to submit written comments on this proposed plan revision. These comments will be weighed carefully by EPA before the agency decides to approve or disapprove this change in the Tennessee plan. Comments will be accepted on or before November 26, 1973. They should be ad-

dressed to the Director, Air and Water Programs Division, Environmental Protection Agency, Region IV, 1421 Peachtree St. NE., Atlanta, Ga. 30309, Attention: Mr. Helms. Receipt of comments will be acknowledged, but no substantive response will be made.

(42 U.S.C. 1857c-5.)

Dated October 19, 1973.

JOHN QUARLES,
Acting Administrator.

[FR Doc.73-22852 Filed 10-25-73;8:45 am]

[40 CFR Part 180]

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

Thiabendazole; Proposed Tolerance

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Alabama, Georgia, Kansas, Louisiana, Mississippi, North Carolina, New Jersey, South Carolina, and Virginia, submitted a petition (PP 3E1376) proposing establishment of an exemption from the requirement of a tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on sweetpotatoes, when used as a seed potato treatment.

Subsequently, the petitioner amended the petition by proposing a tolerance of 0.02 part per million for residues of thiabendazole in or on sweetpotatoes, when used as a seed potato treatment.

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

1. The fungicide is useful for the purpose for which the tolerance is being proposed.

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

3. The proposed use will protect the public health.

4. The proposed tolerance represents a negligible residue.

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 § 180.242 be amended by adding the new paragraph "0.02 part per million * * *", as follows:

§ 180.242 Thiabendazole; tolerances for residues.

* * * * *

0.02 part per million (negligible residue) in or on sweetpotatoes from postharvest application to sweetpotatoes intended only for use as seed.

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 November 26, 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 November 26, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & 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 October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22845 Filed 10-25-73;8:45 am]

FEDERAL RESERVE SYSTEM

[Reg. Y]

[12 CFR Part 225]

BANK HOLDING COMPANIES

Notice of Hearing Regarding the Underwriting of Real Estate Mortgage Guaranty Insurance

The Board of Governors has proposed, by notice published in the FEDERAL REGISTER on May 23, 1973 (38 FR 13572), to add to the list of activities that it has determined to be closely related to banking or managing or controlling banks (Section 225.4(a) of Regulation Y) the following: "Engaging in the underwriting of real estate mortgage guaranty insurance."

The comment period has expired and numerous comments have been received; many of those commenting requested that the Board hold a hearing on the proposal, some requested a formal hearing, and some requested that the Board defer any action on the proposal pending completion of the study of the private mortgage insurance industry by the Federal National Mortgage Association.

After consideration of the comments submitted, the Board has decided not to defer action on the proposal and to conduct an oral presentation on the matter, to be held before available members of the Board in the Board Room of its building on 20th Street and Constitution Avenue NW., Washington, D.C., on November 28, 1973, beginning at 10 a.m. The proceeding will consist of presentations of statements in oral or written form, which are to be addressed to the question of whether the proposed activity is so closely related to banking as to be a proper incident thereto; and to the desirability of the following restrictions and requirements on the performance of the activity:

(a) The proposed subsidiary may not underwrite real estate mortgage guaranty insurance on mortgages originated by the holding company system;

(b) The proposed subsidiary must, prior to underwriting any insurance, become an insurer qualified by the Federal Home Loan Mortgage Corporation;

(c) The bank holding company system may not make demand deposits in or reduce correspondent service charges for any financial institution as an indirect means of compensating that financial institution for utilizing the holding company's proposed underwriting subsidiary;

(d) The name of the proposed subsidiary may not resemble that of the holding company or any subsidiary bank; and

(e) The proposal that, with respect to any proposed mortgage guaranty subsidiary, due to its status as a nonbanking subsidiary, in no event may the resources of any banking subsidiary of the holding company be used to support such company if it encounters financial difficulties.

Any person desiring to give testimony, present evidence, or otherwise participate in these proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before November 14, 1973, a written request containing a statement of the nature of the petitioner's interest in the proceedings, the extent of participation desired, a summary of the matters concerning which petitioner wishes to give testimony or submit evidence, and the names and identity of witnesses who propose to appear.

Interested persons need not participate in the proceedings through oral presentation in order to have their views considered. All views previously expressed in written comments on the pending proposal are under consideration by the Board and are available for inspection and copying in Room 1020 of the Board's building. Anyone wishing to submit written comments on the issues to be considered at the hearing may do so at any time before the close of business on December 12, 1973.

By order of the Board of Governors, effective October 23, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-22757 Filed 10-25-73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

HOSPITALIZATION ADJUSTMENTS

Reductions and Discontinuances

The Administrator of Veterans' Affairs proposes regulatory changes that conform with the provisions of section 3203(b)(1) of title 38, United States Code, which require discontinuance of payment of benefits when an incompetent veteran without dependents is hospitalized by the United States or a political subdivision thereof and his estate equals or exceeds $1,500. The revised regulation will provide for discontinuance of payments from the first day of the month

in which the hospitalized incompetent veteran's estate equals or exceeds $1,500. The prior regulatory provision has been that discontinuance would be effective as of the end of the month in which notice of such is received. This results in payment through the current month. It has been determined that there is no legal basis for providing for further payments after the veteran's estate exceeds the statutory limitation. A change is also proposed to provide for resumption of payments as of the date the veteran's estate is reduced to $500. A similar change is provided for reduction of awards in protected disability pension cases because of hospitalization over six months.

The reduction will be effective the first day of the seventh month of hospitalization. Previously, it has been provided the reduction would be effective the first day of the month following the month in which the action was taken if that is a later date. An additional change deletes references to peacetime rates because Public Law 92-328 (86 Stat. 393) equalized wartime and peacetime disability compensation rates. Previously, title 38, United States Code provided for payment of disabilities incurred in peacetime service at 80 percent of the rates provided for disabilities incurred in wartime service. To effect the changes, it is proposed to amend Part 3, Title 38, Code of Federal Regulations, as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (27H), Veterans Administration, Central Office, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before November 26, 1973 will be considered. All written 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 vistors to any VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and the above room number.

Notice is also given that it is proposed to make these regulatory changes effective the date of final approval except the changes pertaining to peacetime compensation rates which would be effective July 1, 1973, the effective date of section 108 of Public Law 92-328.

1. In § 3.501(i), subparagraphs (1) and (3) are amended to read as follows:

§ 3.501 Veterans.

The effective date of discontinuance of pension or compensation to or for a veteran will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * *

(i) *Hospitalization.*—(1) *§ 3.551(b).* First day of seventh calendar month following admission if veteran without dependents.

* * * * *

(3) *§ 3.557.*—Incompetent hospitalized veteran, without dependents, whose estate equals or exceeds $1,500: Date of admission or the first day of the month in which payment was actually received which causes the estate to equal or exceed $1,500, whichever is later. If the veteran was hospitalized for observation and examination, the date treatment began will be considered the date of admission.

* * * * *

2. In § 3.551, paragraph (b) is amended to read as fololws:

§ 3.551 Reduction because of hospitalization.

* * * * *

(b) *Reduction after 6 months.*—Pension (except as provided in paragraph (c) of this section) in excess of $30 monthly for a veteran who has neither wife, child nor dependent parent shall continue at the full monthly rate until the end of the sixth calendar month following the month of admission for hospitalization. The rate payable will be reduced effective the first of the seventh calendar month to $30 monthly or 50 percent of the amount otherwise payable, whichever is greater. The reduced rate will be effective the first day of the seventh calendar month following admission. Payment of the amount withheld may be made on termination of hospitalization, as provided in § 3.556. (Public Law 92-328; 86 Stat. 393.)

* * * * *

3. In § 3.552, paragraphs (d), (f) and the introductory portion of paragraph (g) preceding subparagraph (1) are amended to read as follows:

* * * * *

§ 3.552 Adjustment of allowance for regular aid and attendance.

* * * * *

(d) Where entitlement by reason of need for regular aid and attendance is the basis of the monthly rate under 38 U.S.C. 314(1) the award will be reduced to the rate payable under 38 U.S.C. 314 (s).

* * * * *

(f) Where entitlement to the rate in 38 U.S.C. 314(o) is based in part on need for regular aid and attendance reduction because of being hospitalized will be to the rate payable for the other conditions shown.

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 314 (l), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only), or anatomical loss of both eyes is being paid compensation of $862 because of entitlement to another rate under section 314(l) on account of need for aid and attendance his compensation will be reduced while hospitalized to the following:

* * * * *

4. In § 3.556, paragraph (a) is amended to read as follows:

§ 3.556 Adjustment on discharge or release.

(a) *Temporary absence; 30 days.*—(1) Where a competent veteran whose award was reduced under § 3.551(b) is placed on Non-Bed Care status or other authorized absence of 30 days or more the full monthly rate, excluding any allowance for regular aid and attendance, will be restored effective the date of reduction. The full monthly rate for an incompetent veteran, or for a competent veteran whose pension was reduced under § 3.551(c), will be restored effective the date of departure from the hospital unless it is determined that apportionment for an estranged wife should be continued. In all instances, any allowance for regular aid and attendance will be restored effective the date of departure from the hospital.

(2) Upon the veteran's return to the hospital, an award which is subject to reduction under § 3.551 (b) or (c) will again be reduced effective the date of the veteran's return to the hospital. In all instances, any allowance for regular aid and attendance will be discontinued, if in order, effective the date of the veteran's return to the hospital.

5. In § 3.557, paragraph (d) is amended to read as follows:

* * * * *

§ 3.557 Incompetents; estate over $1,500 and hospitalized.

* * * * *

(d) Payment of pension, compensation or emergency officers' retirement pay to a veteran subject to the provisions of paragraph (b) of this section will be discontinued from the first day of the month in which his estate equals or exceeds, $1,500. All or any part of the benefit not paid to the veteran may be apportioned for his dependent parents on the basis of need as determined by the Veterans Assistance Officer. If the veteran is not hospitalized by the Veterans Administration there may be paid out of any remaining amounts so much of the pension, compensation or emergency officers' retirement pay as equals the amount charged to the veteran for his current care and maintenance in the institution in which treatment or care is furnished him, but not more than the

amount determined to be the proper charge.

6. In § 3.558, paragraph (a) is amended to read as follows:

§ 3.558 Resumption; incompetents $1,500 estate cases.

(a) Where payment has been discontinued by reason of § 3.557(b), it will not be resumed during hospitalization except as provided in paragraph (b) of this section until proper notice has been received showing the estate is reduced to $500 or less. Payments will not be made for any period prior to the date on which the estate was reduced to $500 or less.

* * * * *

Approved: October 18, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc. 73-22809 Filed 10-25-73;8:45 am]

DEPARTMENT OF JUSTICE

[28 CFR Part 52]

[Order 545-73]

RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES

Notice of Proposed Rulemaking

The Department of Justice proposes to revise its regulations governing relocation assistance and land acquisition policies under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The purpose of the revision is to conform the Department's regulations with guidelines of the Office of Management and Budget (OMB Circular No. A-103 of May 1, 1972).

Interested persons are invited to submit written views on the proposed revised regulations to Mr. Glen E. Pommerening, Acting Assistant Attorney General for Administration, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530, on or before December 10, 1973.

Pursuant to the authority vested in me by Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900 (42 U.S.C. 4633), and 28 U.S.C. 509, 510 and 5 U.S.C. 301, it is proposed that Part 52 of Chapter I of Title 28, Code of Federal Regulations, be revised as set forth below.

Dated October 16, 1973.

ELLIOT RICHARDSON,
Attorney General.

PART 52—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICIES

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Subpart A—General Provisions

§ 52.1 Purpose.

(a) The purpose of these regulations is to implement the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (42 U.S.C. 4601 et seq.), to ensure fair and equitable acquisition practices and uniform, fair and equitable treatment of persons displaced by Federal and federally assisted programs and to safeguard against abuse of any of the underlying purposes, provisions, and policies of the Act.

(b) These regulations apply with respect to the acquisition of all real property for, and the relocation of all persons displaced by, Federal programs and projects and programs and projects undertaken by State agencies which receive Federal financial assistance for all or part of the cost.

§ 52.2 Definitions.

(a) "Act" as used in this part means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) "Bureau" means any of the following organizational units of the Department:

(1) Bureau of Prisons.

(2) Law Enforcement Assistance Administration.

(3) Immigration & Naturalization Service.

(c) "Bureau head" means the head of any bureau listed in paragraph (b) of this section, or his designee.

(d) "Initiation of negotiations" means the date the bureau makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase real property.

(e) "Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multifamily building; a unit of a condominium, or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under state law, or cannot be moved without substantial damage or unreasonable cost. The term "dwelling" does not include seasonal or part-time dwelling units, such as beach houses, mountain or other vacation cabins.

(f) "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(g) "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(h) "Person" means any individual, partnership, corporation, or association.

(i) "Displaced person" means a person who moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by any bureau of the Department of Justice or with Federal financial assistance; and solely for the purposes of sections 202 (a) and (b) and 205 of the Act, as a result of the acquisition of or as the result of the written order of the acquiring bureau to vacate other real property, on which

such person conducts a business or farm operation, for such program or project. In order to qualify as a displaced person, a person must have moved as a result of the receipt of a written notice to vacate, or the subject real property must in fact have been acquired and the person must have moved as a result of its acquisition (except in those instances covered by section 217 and 219 of the Act).

(j) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purposes of section 202(a) of the Act for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(k) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(l) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(m) "Owner" means a person who holds fee title, a life estate, a 99-year lease, or has an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interests, or who is possessed of such other proprietary interest in the property acquired, as in the judgment of the head of the Bureau, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by device, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(n) "Financial means": For the purpose of determining financial means of families and individuals in accordance with section 205(c)(3) of the Act, a financial means test (ability to pay) must be made to satisfy the requirement set forth in § 52.40. In order to meet a financial means test a determination should be made as to the displaced person's ability to afford the replacement dwellings. In making this determination the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

(o) "Displacing agency" means a bureau in the case of a direct Federal project or a State agency in the case of a project receiving Federal financial assistance.

(p) "Family" means two or more individuals who are related by blood, adoption, marriage or legal guardianship who live together as a family unit, or upon determination by the head of the bureau, other persons who live together as a family unit.

§ 52.3 Time limit on applying for benefits.

Applications for benefits under the Act must be made within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired, or the date on which the bureau or State agency makes final payment of all costs of that real property, whichever is later. The bureau head may extend this period upon a proper showing of good cause.

§ 52.4 Public information.

The head of each bureau shall make available to the public full information concerning the bureau's relocation programs and shall insure that persons to be displaced are fully informed, at the earliest possible time, of such matters as available relocation payments and assistance, the specific plans and procedures for assuring that suitable replacement housing will be available for homeowners and tenants in advance of displacement, the eligibility requirements and procedures for obtaining such payments and assistance, and the right of administrative review by the head of the Bureau.

Subpart B—Assurances of Adequate Replacement Housing Prior to Displacement

§ 52.10 Scope of subpart.

The provisions set forth in this subpart are to guide bureaus and State agencies in implementing section 205(c)(3) and 206(b) of the Act.

§ 52.11 Determination.

Bureaus may not proceed with any phase of a project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until it has determined, or received satisfactory assurances from the State agency that, within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in § 52.14, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

§ 52.12 Support.

The determination or assurances under § 52.11 shall be based on a current survey and analysis of available replacement housing by the displacing agency. Surveys to determine availability of replacement housing shall be undertaken during the planning phase for each area wherein provisions of the Act may be applicable. Such surveys and analysis must take into account the competing demands on available housing. These surveys shall include sufficient data to provide assurances that replacement dwellings are available and meet requirements of the Act and criteria described herein. These surveys shall list housing currently available. Information needed to develop and maintain the survey may be secured from the Veterans Administration, Federal Housing Administration, Department of Housing and Urban Development, and Real Estate Associations.

§ 52.13 Waiver.

In accordance with section 205(c)(3) of the Act, the bureau head may waive the assurances required under § 52.11, but only on the basis of emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by § 52.80.

§ 52.14 Decent, safe, and sanitary housing.

A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weather-tight condition, and which meets local housing codes. The bureau head shall determine if a dwelling unit is decent, safe, and sanitary, based on the following criteria. Adjustments may only be made in the cases of unusual circumstances or unique geographical areas.

(a) *Housekeeping unit.*—A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same, a separate complete bathroom; hot and cold running water in both the bathroom and the kitchen, and adequate and safe wiring system for lighting and other electrical services, and heating as required by climatic conditions and local codes.

(b) *Non-housekeeping unit.*—A non-housekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards shall be subject to the approval of the head of the bureau causing the displacement.

(c) *Occupancy standards.*—Occupancy standards for replacement housing shall comply with bureau approved occupancy requirements or comply with local codes.

§ 52.15 Absence or inadequacy of local standards.

In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the bureau head shall establish the standards.

Subpart C—Moving and Related Expenses

§ 52.20 Eligibility.

(a) Any displaced person (including one who conducts a business or farm operation), is eligible to receive payment for moving expenses. A person who lives on his business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to displacement from a business or farm operation.

(b) Any person who moves from real property or moves his personal property from real property as a result of the acquisition of such real property in whole or part, or as a result of a written notice of the acquiring bureau or State agency to vacate real property, or solely for the purposes of Section 202(a) and (b) of the Act, as a result of the acquisition of, or a written notice of the acquiring bureau or State agency to vacate, other real property on which such person conducts a farm or business, is eligible to receive a payment for moving expenses.

§ 52.21 Actual reasonable expenses in moving.

(a) *Allowable expenses.*—(1) Transportation of individuals, families, and personal property from acquired site, to the replacement site, not to exceed a distance of 50 miles, except where the Bureau head determines that relocation beyond the 50 mile area is justified.

(2) Packing, unpacking, crating, and uncrating of personal property.

(3) Advertising for packing, crating and transportation when the bureau head determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the bureau head determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal and reinstallation, and reestablishment, including such modifications as deemed necessary by the bureau head, and reconnection of utilities for, of machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing bureau is released from any payment for the property.

(7) Property lost, stolen, or damaged, (not caused by the fault or neglect of the displaced person, his agent or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses as determined to be allowable by the bureau head.

(b) *Limitations.*—(1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the bureau head determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost, minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the bureau head, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junk yards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

§ 52.22 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, or other improvements in which the displaced person reserved ownership, except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of good will.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

(k) Such other times as the bureau head determines should be excluded.

§ 52.23 Expenses in searching for replacement business or farm.

(a) *To be allowed:* (1) Actual travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10.00 per hour.

(4) In the discretion of the bureau head necessary broker, real estate or other professional fees to locate a replacement business or farm operation.

(b) *Limitation.*—The total amount which a displaced person may be paid for searching expenses may not exceed $500, unless the bureau head determines that a greater amount is justified based on the circumstances involved.

§ 52.24 Actual direct losses by business or farm operation.

When the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it, and should be reimbursed for the reasonable cost incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated cost of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement, or the estimated cost of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

Subpart D—Payments in Lieu of Moving and Related Expenses

§ 52.30 Scope of subpart.

The provisions set forth in this subpart are to guide bureaus in implementing section 202 (b) and (c) of the Act.

§ 52.31 Dwellings—schedules.

(a) Section 202(b) provides that at the option of the displaced person, he may receive a moving expense allowance not to exceed $300, based on schedules established by the bureau head, and a dislocation allowance of $200. Moving allowance schedules maintained by the respective State highway departments shall be the basis for the bureau's schedule. These schedules shall provide for adequacy of reimbursement in every locality.

(b) Where there are no highway department schedules, the head of the bureau undertaking or providing Federal financial assistance to a project causing displacement in such areas shall cooperate in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person who elects to receive a payment based on a schedule shall be paid under the schedule used in the jurisdiction in which displacement occurs regardless of where he relocates.

§ 52.32 Business.

(a) *Eligibility.* A person displaced from his business as defined in section 101(7)

(A), (B), and (C) of the Act, is eligible under section 202(c) of the Act to receive a fixed payment in lieu of moving and related expenses. Care must be exercised in each instance, however, to assure that such payments are made only in connection with a bona fide business, as defined in § 52.2(j).

(b) Those businesses described in section 101(7)(D) of the Act are not eligible under section 202(c) for a payment in lieu of moving and related expenses.

(c) Where a displaced person is displaced from his place of business, no payment shall be made under section 202(c) of the Act until the head of the displacing bureau determines (1) that the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and (2) that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing bureau only after consideration of all pertinent circumstances, including but not limited to, the following factors:

(i) The type of business conducted by the displaced concern.

(ii) The nature of the clientele of the displaced concern.

(iii) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 52.33 Farms—partial taking.

Where a displaced person is displaced from only a part of his farm operation the fixed payment provided by section 202(c) of the Act shall be made only if the displacing bureau determines that the farm met the definition of a farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

§ 52.34 Nonprofit organizations.

Where a nonprofit organization is displaced, no payment shall be made under section 202(c) of the Act until after the head of the Bureau determines:

(a) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(b) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 52.35 Net earnings.

The term "average annual net earnings" as used in section 202(c) of the Act means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for a project, or during such other period as the head of the displacing bureau determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings," it may nevertheless receive the $2,500 minimum payment authorized by section 202(c) of the Act.

§ 52.36 Amount of business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than $2,500 nor more than $10,000.

Subpart E—Replacement Housing Payments for Homeowners

§ 52.40 Scope of subpart.

The provisions set forth in this subpart are to guide bureaus in implementing section 203(a) of the Act.

§ 52.41 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment authorized by section 203(a) of the Act, not to exceed $15,000, if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property, or owned and occupied the property covered or qualified under section 217 of the Act for not less than 180 days prior to displacement.

(2) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the 1-year period beginning on the date on which he receives from the displacing bureau the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under this section may be eligible for a replacement housing payment under Subpart F of these regulations.

§ 52.42 Comparable replacement dwellings.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary and is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, sex, or national origin.

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located, with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors,

(2) Public utilities, and

(3) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within the financial means of the displaced family or individual.

(g) Available on the market to the displaced person.

(h) If housing meeting the requirements of this section is not available on the market, the bureau head may, upon a proper finding of the need therefore, consider available housing exceeding these basic criteria.

§ 52.43 Computation of replacement housing payment.

The replacement housing payment of not more than $15,000 comprises the following:

(a) *Differential payment for replacement housing.* The bureau head may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing bureau, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* The bureau head may establish a schedule of reasonable acquisition cost for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one Federal agency is causing displacement in a community or an area, the head of the bureau concerned shall coordinate the establishment of the schedule for replacement housing payments with such other agencies.

(2) *Comparative method.*—Bureaus may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings most representative of the dwelling unit acquired, available to the displaced person, and which meets the definition of a comparable replacement dwelling. A single dwelling shall be used when additional comparable dwellings are not available.

(3) *Alternate method.*—The bureau head may develop criteria for computing replacement housing payments when neither the schedule method nor the

comparative method is feasible. An alternate method proposed by a State agency is subject to prior concurrence of the bureau head.

(4) *Limitations.*—The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the above, the comparable replacement housing payment shall be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.*—The bureau head shall determine the amount, if any, necessary to compensate a displaced person for any increased interest cost, including amounts paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage, i.e., one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. The following shall be considered in computing the interest payment:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value.

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by the commercial banks in the general area in which the replacement dwelling is located.

(3) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount financed, not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(c) *Incidental expenses.*—(1) The bureau head shall determine the amount, if any, necessary to reimburse a displaced person for actual cost incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing, and related costs including title search, preparation of conveyance instruments, notary fees, surveys, preparation of plats, and charges incident to recordation.

(ii) Lenders', FHA, or VA, appraisal fees.

(iii) FHA application fee.

(iv) Certification of structural soundness when required by lender, FHA, or VA.

(v) Credit reports.

(vi) Title policies or abstracts of titles.

(vii) Escrow agent's fee.

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title 1, Public Law 90–321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

Subpart F—Replacement Housing Payment for Tenants and Certain Others

§ 52.50 Scope of subpart.

The provisions set forth in this subpart are to guide bureaus in implementing section 204 of the Act.

§ 52.51 Eligibility.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204 of the Act, if he meets both of the following requirements:

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property or actually occupied the property covered or qualified under section 217 of the Act for not less than 90 days prior to displacement. Tenants and other persons occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(2) Is not eligible to receive a payment under section 203 of the Act.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, as authorized by section 204 of the Act when he rents a decent, safe, and sanitary replacement dwelling, which is decent, safe, and sanitary not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 52.52 Computation of replacement housing payment for displaced tenants.

A displaced tenant is eligible for a rental replacement housing or, if he purchases replacement housing within 1 year from displacement, he is eligible for a downpayment including expenses incidental to closing not to exceed $4,000.

(a) *Rental replacement housing payment.*—The bureau head shall determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.*—A rental schedule may be established for renting comparable replacement dwellings as described in § 52.42 and which are available on the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent was reasonable. The bureau head may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant. For purposes of the regulations in this part, "economic rent" is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule shall be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area the bureau shall cooperate with the respective agencies in choosing the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.*—The average month's rent may be determined by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 52.42. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. The bureau head may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant.

(3) *Exceptions.*—The bureau head may establish the average month's rent paid by the displaced person by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be used in determining the amount of payment to which the displaced tenant is entitled.

(4) *Alternate to paragraph (a) (1) and (2) of this section.*—When neither method is feasible, the head of the Bureau shall develop criteria for computing the payment.

(5) *Disbursement of rental replacement housing payments.*—All rental replacement housing payments in excess of $500 shall be made in four equal annual installments.

(b) *Purchases—replacement housing payment.*—If the tenant elects to purchase instead of to rent, the payments shall be computed by determining the amount necessary to enable him to make a downpayment and to cover incidental expenses in the purchase of replacement housing, as follows:

(1) The downpayment shall be the amount necessary to make a downpay-

ment on a comparable replacement dwelling. Determination of the amount necessary for such downpayment shall be based on the amount of downpayment that would be required for purchase of the dwelling using a conventional loan.

(2) Incidental expenses of closing the transaction are those as described in § 52.43(c).

(3) The maximum payment may not exceed $4,000, except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the downpayment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental cost on the closing statement.

§ 52.53 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart E of this part because of the 180-day occupancy requirements and who elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in § 52.52(a) except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart E of this part because of the 180-day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing cost not to exceed $4,000. The payment shall be computed in the same manner as shown in § 52.52(b).

Subpart G—Relocation Assistance Advisory Services

§ 52.60 Relocation assistance advisory program.

(a) The bureau shall provide a relocation assistance advisory program including such measures, facilities, or services as may be necessary or appropriate to perform all of the tasks detailed in section 205(c) of the Act for persons displaced as a result of a program or project undertaken by the bureau.

(b) If the bureau head determines that any person, occupying property immediately adjacent to the real property acquired, is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under section 205(c) of the Act.

(c) The State agency shall provide the advisory program when bureau assisted projects are involved.

§ 52.61 Coordination of planned relocation activities.

(a) The bureau shall consult with the appropriate Housing and Urban Development Regional Area Office within the jurisdictional area concerning availability of housing, and shall provide the HUD Office with information regarding the projects which will cause displacement.

(b) When one or more other Federal agencies are causing displacement in a community or area the bureau head shall coordinate with the respective Federal agencies for the purpose of planning relocation activities and available housing resources.

(c) When more than one State agency is causing displacement in a community or area, the bureau head shall require the heads of the agencies to take positive action to assure the maximum coordination of relocation activities.

§ 52.62 Contracting for relocation services.

(a) The head of a bureau contemplating initiation of displacement activities shall consider contracting with the central relocation agency in the community or area for the purpose of carrying out its relocation activities and shall require specific performance standards for these services.

(b) When a centralized relocation agency is not available in the community or area, or if in the judgment of the bureau head the centralized agency does not have the capacity to provide the necessary services, within the time required by the bureau's program, the bureau head may contract with another public agency or a private contractor who can provide the necessary relocation services.

Subpart H—Federally Assisted Programs

§ 52.70 Assurances.

(a) *Information.*—The State agency shall provide the bureau with a statement assuring the bureau that the affected persons will be adequately informed of the benefits, policies and procedures described in this part.

(b) *Compliance.*—The State agency shall provide an assurance to the bureau that will comply with the provisions of this Part, as required by sections 210, and 305 of the Act. The State agency, as part of the assurance required by section 305 of the Act, shall provide a statement indicating the extent to which it can comply with the provisions of sections 301 and 302 of the Act. If the State agency indicates that it is unable to comply fully with any of these policies, its statement shall be supported by an opinion of the chief legal officer of the State agency. Such opinion shall contain a full discussion of the issues involved and shall cite legal authority in support of any conclusion of legal inability to comply with any of the provisions set forth in sections 301 and 302 of the Act.

(c) *Monitoring assurances.*—The bureau shall take continuing action to assure that State agencies are acting in accordance with the assurances they have provided.

§ 52.71 Grants, contracts or agreements executed prior to July 1, 1972.

Any grant to, or contract with, a State agency executed before July 1, 1972, under which Federal financial assistance is available to pay all or part of the cost of any program or project which results in the displacement of any person or the acquisition of any real property on or after July 1, 1972, shall be amended to include the cost of providing payments and services under sections 210 and 305 of the Act.

§ 52.72 Administration—relocation assistance programs.

(a) *Approval.* If a State agency elects to contract for services pursuant to section 212 of the Act, it shall enter into a written contract which shall be consistent with regulations of the bureau administering the project or program causing displacement. Such bureau shall take affirmative action to assure that the contract is administered so as to provide uniform and effective relocation for all displaced persons consistent with these regulations.

(b) *Contents.*—Contracts for services by State agencies shall include, as a minimum, the following provisions:

(1) That payments and services shall be provided in accordance with these regulations as implemented by bureau procedures.

(2) That records required by bureau regulations will be retained for a period of at least three years and shall be available for inspection by representatives of the bureau and the Department.

(3) Clauses required by regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d.

(4) Any other provision approved by the bureau head as minimum requirements.

§ 52.73 Notification procedures.

To the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation without at least 90 days written notice, from the bureau head or state agency, of the date by which such move is required. Such notice shall be served personally or by certified or registered first class mail.

Subpart I—Annual Report

§ 52.80 Preparation.

Each bureau shall prepare and submit an annual report on a fiscal year basis to the Assistant Attorney General for Administration on its activities with respect to the programs and policies established or authorized by the Act. This report shall consist of narrative comments and supporting statistical data and such information as may be required by the Assistant Attorney General for Administration.

§ 52.81 Submission.

Each bureau shall submit ten copies of its annual report to the Assistant Attorney General for Administration by September 15 of each year in order to enable the Department to submit its complete report to the Office of Management and Budget not later than October 1 of each year.

Subpart J—Uniform Real Property Acquisition Policy

§ 52.90 Scope of subpart.

The provisions set forth in this subpart are to guide bureaus and State agencies in implementing Title III of the Act.

§ 52.91 Acquisition procedures.

(a) *Just compensation.* Before initiation of negotiations for the acquisition of real property, the bureau head, or the head of the State agency with the concurrence of the bureau head, shall establish an amount which he believes to be just compensation therefor. In no event shall such amount be less than the bureau's approved appraisal of the fair market value of the property.

(b) *Initiation of negotiations.*—(1) *Statement to be furnished owner.* When negotiations are initiated the owner of such real property shall be provided with a written statement of, and summary of the basis for, the amount estimated as the just compensation. The summary statement of the basis for the bureau's or agency's determination of just compensation should include, as a minimum, the following:

(i) Identification of the real property and the estate or interest therein to be acquired, including the buildings, structures, and other improvements on the land, as well as the fixtures considered to be a part of the real property, and

(ii) The amount of the estimated just compensation for the property to be acquired, as determined by the acquiring bureau or agency, and a statement of the basis therefor. In the case of a partial taking, damages, if any, to the remaining real property shall be separately stated.

(2) *Offer to purchase.*—The bureau head shall make a prompt offer to purchase the property for the amount contained in the statement.

§ 52.92 Appraisal standards.

For the purpose of promoting uniformity under section 301(3) of the Act, the head of each State agency acquiring real property shall, with the concurrence of the bureau head, establish standards for appraisals used in real property acquisition, criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers consistent to the maximum extent possible under State law with the Uniform Appraisal Standards for Federal Land Acquisition published in 1972 (or at a later date as may become relevant if such Uniform Standards are revised) by the Interagency Land Acquisition Conference.

§ 52.93 Federally assisted programs.

The bureau head shall require that State agencies reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act. The bureau head shall also require that all State agencies comply with the provisions of sections 301 and 302 of the Act if compliance is legally possible under State law.

§ 52.94 Exclusion of payments for relocation costs and related items.

For real property acquisitions under Federal law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in Title II of the Act. Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided by Title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Title II of the Act.

Subpart K—Administrative Review

§ 52.111 Scope of subpart.

The provisions set forth in this Subpart are to guide bureaus and State agencies in providing administrative review of decisions made with respect to duties and responsibilities established under the Act.

§ 52.112 Review procedure.

(a) Any person aggrieved by a determination as to eligibility for a payment authorized by the Act, or the amount of a payment, may apply in writing for review by the bureau head, in the case of a direct Federal program or project. The bureau head shall:

(1) Give prompt consideration of all requests for administrative review;

(2) Give prompt written notice to the claimant of any determination made in connection with his application for review, and include a full explanation concerning any amount claimed which has been disallowed; and

(3) Provide for prompt payment of any amounts which are determined to be due the claimant.

(b) In the case of a State program or project receiving Federal financial assistance, the bureau head shall require the State agency to provide for administrative review by the head of the State agency, which review shall be subject to the same requirements as set forth in paragraph (a) of this section.

[FR Doc.73-22771 Filed 10-25-73;8:45 am]

COST OF LIVING COUNCIL

[6 CFR Part 150]

PHASE IV PRICE REGULATIONS

State and Local Government Sales of Petroleum Products

Notice is hereby given that, pursuant to the authority of Executive Orders 11695 and 11730, the Cost of Living Council, as part of its continuing review of the operation of price controls with respect to the petroleum industry, is considering the adoption of certain amendments to exclude sales of "covered products" as defined in Subpart L from the exemption of price adjustments by State and local governments. If ultimately adopted, this regulation would be effective as of 9 a.m., e.s.t. October 25, 1973, the date upon which this notice of proposed rulemaking is filed with the FEDERAL REGISTER. It would occur to any delivery of covered products occurring after that date.

The Council is aware that certain government units as lessors of crude petroleum fields have the option to take royalty payment in kind. Under the existing regulations sales of products including crude petroleum and refined petroleum products by State and local governments are exempt from the Subpart L price ruels for covered prod snU.tcuedr L price rules for covered products. Under the proposed rule, the sale of crude petroleum or refined petroleum by State and local governments would be treated in the same manner as a sale by any other firm and would be subject to the provisions of Subpart L.

In undertaking this rulemaking procedure, the Council wishes to solicit comments on the impact of such a rule both with respect to supply and price stabilization. The Council is particularly interested in receiving comments on the proposed rule that focus upon the issues discussed in this notice.

Comments on the magnitude of the impact of the proposed rule in relation to total domestic sales of crude petroleum are of particular interest. Legislation currently pending in Congress proposes to exempt from all price controls the production of crude petroleum from stripper wells. The amount of production which would be affected by such an exemption is substantial, and the removal of the exemption from government sales should be viewed in this light.

Presently, there is a mandatory allocation program for propane and a mandatory allocation program for middle distillates scheduled to take effect on November 1. In addition, there is legislation pending which would impose mandatory controls on the allocation of crude petroleum. The Council is interested in the impact of sales of crude petroleum by states upon the regulatory scheme of any mandatory allocation program.

The effects of possible changes in traditional supply patterns which could result from sales of crude petroleum by states as well as the availability of alternate sources of supply both for the lessee refiners and those purchasing from the states are also matter on which the Council invites comments.

The Council is concerned about the possible impact of the proposed rule in light of the increasingly tight supply situation caused by the recent actions of certain mideast governments with respect to the curtailment of sales of crude petroleum to the United States. These actions complicate the domestic crude petroleum supply situation, and may directly affect prices for crude petroleum and refined products.

Interested persons are invited to participate in the rulemaking by submitting written data, views or arguments with respect to the proposed regulations set

forth in this notice to the Executive Secretariat, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508.

Comments should be identified on the outside envelope and on the document submitted with the designation "Proposed Phase IV Petroleum Amendments." Ten copies should be submitted. All comments received by November 24, 1973, will be considered by the Council before final action is taken on the proposed regulation. The proposed regulation may be changed in light of the comments received. All comments received in response to this notice will be available for examination and copying by interested persons at the Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508, during the hours of 9 a.m. to 5 p.m., Monday through Friday. Submission may be inspected both before and after the ending date for comment.

(Economic Stabilization Act of 1970; as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing it is proposed to amend Part 150 of Title 6 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., 9 a.m., e.s.t., October 25, 1973.

JOHN T. DUNLOP,
Director,
Cost of Living Council.

PARAGRAPH 1. The exemption of certain price adjustments by State and local governments is amended to exclude sales of "covered products" as defined in Subpart L.

§ 150.54 Certain price adjustments.

(a) *Federal and State and local governments.* * * *

(2) Prices and fees charged by State and local governments for any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, facilities, materials, or similar thing of value or utility, performed, furnished, provided, granted, prepared, issued, or transferred including tuition and other charges for schools, colleges, and universities owned or operated by a State and local government, are exempt, except, however, that prices charged for sales of "covered products" as defined in Subpart L, and fees or charges for health services (but not health service fees levied on all students as a condition of enrollment) are not exempt under the provisions of this section.

* * * * *

(f) *Government property.* * * *

(2) Prices charged for property sold by the United States or State and local governments, including lease-sales are exempt, except however, that prices charged by state and local governments for sales of "covered products" as defined in Subpart L are not exempt under the provisions of this section.

[FR Doc.73-22984 Filed 10-25-73;10:47 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

[Delegation of Authority No. 99; Amdt No. 1]

ASSISTANT ADMINISTRATOR FOR PROGRAM AND MANAGEMENT SERVICES, ET AL.

Delegation of Authority Concerning Contracting and Related Functions

Pursuant to the authority delegated to me by Delegation of Authority No. 104 from the Secretary of State, dated November 3, 1961 (26 FR 10608), I hereby amend Delegation of Authority No. 99 dated April 27, 1973 (38 FR 12834) as follows:

1. Paragraph 3.D(3).a. is revised to read as follows:

a. Paragraphs B.1 and C of Attachment A thereto are revoked effective October 31, 1973, unless earlier revoked by action of the Assistant Administrator for Program and Management Services, or his delegee, which action shall have the concurrence of the Assistant Administrator for Africa.

2. Paragraph 3.D(6) is revised to read as follows:

(6) No. 60 dated April 28, 1965, is amended by deleting paragraphs B.1, C and D.3 of Attachment A.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

This amendment shall be effective immediately.

Dated October 17, 1973.

MAURICE J. WILLIAMS,
Acting Administrator.

[FR Doc.73-22784 Filed 10-25-73;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES OF THE SEVENTH NATIONAL BANK REGION

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Seventh National Bank Region will be held at 9:30 a.m. on Tuesday, November 13, 1973, at O'Hare International Tower, Box 66414, O'Hare Airport, Chicago, Ill.

The purpose of this meeting is to assist the Regional Administrator and Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Seventh National Bank Region.

It is hereby determined pursuant to section 19(d) of Public Law 92-463 that the meeting is concerned with matters listed in section 552(b) of title 5 of the United States Code and particularly with exceptions (3), (4), and (8) thereof, and is therefore exempt from the provisions of section 10 (a)(1) and (a)(3) of the Act (Public Law 92-463) relating to open meetings and public participation therein.

Dated October 19, 1973.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.73-22793 Filed 10-25-73;8:45 am]

Office of the Secretary

RACING PLATES (ALUMINUM HORSESHOES) FROM CANADA

Determination of Sales at Less Than Fair Value

OCTOBER 23, 1973.

Information was received on March 8, 1973, that racing plates (aluminum horseshoes) from Canada were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of August 2, 1973.

I hereby determine that for the reasons stated below, racing plates (aluminum horseshoes) from Canada are being, or are likely to be, sold at less than fair value within the meaning of section 201 (a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this determination is based. The information before the U.S. Customs Service indicates that the proper basis of comparison for fair value purposes is between purchase price and the home market price of such or similar merchandise.

Purchase price was calculated on the basis of the United States delivered price with deductions for freight, brokerage charges, and U.S. duty.

Home market price was based on the f.o.b. factory price.

Using the above criteria, purchase price was found to be lower than the home market price of such or similar merchandise.

The United States Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-22940 Filed 10-25-73;8:45 am]

UPHOLSTERY SPRING WIRE OF COILING AND KNOTTING QUALITY FROM JAPAN

Discontinuance of Antidumping Investigation

OCTOBER 23, 1973.

On August 10, 1973, there was published in the FEDERAL REGISTER a "Notice of Tentative Discontinuance of Antidumping Investigation" (38 FR 21677) concerning upholstery spring wire of coiling and knotting quality from Japan.

The statement of reasons for the tentative action was published in the above-mentioned notice, and interested persons were afforded an opportunity to make written submissions and to present oral views in connection with the tentative discontinuance.

No written submissions or requests to present oral views have been received. For the reasons stated in the "Notice of Tentative Discontinuance of Antidumping Investigation," I hereby discontinue the antidumping investigation of upholstery spring wire of coiling and knotting quality from Japan.

This "Discontinuance of Antidumping Investigation" is published pursuant to § 153.15(d) of the Customs Regulations (19 CFR 153.15(d)).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-22939 Filed 10-25-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group No. 631]

CALIFORNIA

Notice of Filing of Plats of Survey

OCTOBER 17, 1973.

1. Plats of dependent resurvey and survey of accreted lands, described below, will be officially filed in the California State Office, Sacramento, California, effective at 10:00 a.m. on December 3, 1973:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 2 S., R. 23 E.,
Sec. 25, lots 11, 12, 13 and 14;
Sec. 36, lots 5, 6, 7, 8, 9, 10, 11, and SE¼ NE¼.

T. 2 S., R. 24 E.,
Sec. 19, lots 10, 11, 12, NE¼SE¼, and S½SE¼;
Sec. 29, lot 1;
Sec. 30, lots 2, 3, 4, 5, 6, 7, 8, 9, W½NE¼, E½NW¼, and NE¼SW¼.
Sec. 31, lot 1.

The areas described aggregate 1,106.65 acres.

2. These plats represent a dependent resurvey of a portion of the west boundary of the Colorado Indian Reservation in T. 2 S., R. 23 E., a portion of the west township boundary in T. 2 S., R. 24 E., and portions of subdivisional lines designed to restore the corners in their true original locations; and the survey of accreted land in both townships.

3. The above described lands were withdrawn by Executive Order of November 16, 1874, as a part of the Colorado River Indian Reservation.

ELEANOR K. WILKINSON,
Chief, Branch of Records and Data Management.

[FR Doc.73-22762 Filed 10-25-73;8:45 am]

[Montana 26024]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 19, 1973.

The Forest Service, United States Department of Agriculture, has filed application, M 26024, for the withdrawal of national forest lands described below from mineral location and entry under the mining laws but not from leasing under the mineral leasing laws, subject to existing valid claims.

The applicant desires the land to protect an existing fire guard station and facilities from mineral location and entry.

For a period of thirty days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, Montana 59101.

The Department's regulation (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

HELENA NATIONAL FOREST

Thompson Gulch Guard Station

T. 9 N., R. 4 E.,
Secs. 22 and 27, A tract of land lying in the SE¼SW¼ of Sec. 22 and the NE¼NW¼ of Sec. 27, more particularly described as follows: Beginning at the brass cap ¼ corner monument between secs. 22 and 27 which is Corner No. 1, the true point of beginning; thence S. 66°38′ W., 656.82 feet to Corner No. 2; (Corners Nos. 2, 3, 4, and 5 are all ⅝ inch rebar with aluminum cap and number.) thence N. 40°37′ W., 597.80 feet to Corner No. 3; thence N. 57°01′ E., 994.03 feet to Corner No. 4; thence N. 83°40′ E., 129.10 feet to Corner No. 5; thence S. 02°15′ E., 749.46 feet to the true point of beginning, all according to the plat designated Plot Plan of Thompson Gulch Administrative Site drawn by Lewis and approved by P. W. Waters on November 11, 1971.

The area described contains 13.42 acres in Meagher County, Montana.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.73-22816 Filed 10-25-73;8:45 am]

NEVADA GRAZING DISTRICT ADVISORY BOARDS

Notice of Meetings

Notice is hereby given that six Bureau of Land Management grazing district advisory boards, established by the Taylor Grazing Act, will meet at separate locations in Nevada during November and December 1973, as follows in chronological order:

Winnemucca. November 16, at 9 a.m., at the Bureau of Land Management District Office. The agenda contains nine items: (1) Election of board officers, (2) advice and recommendations on 1974 grazing applications, (3) transfer of grazing privileges, (4) cooperative agreements, (5) discussion on wild horse and burro regulations, (6) possibilities of advisory board assessment of special range improvement fees on temporary nonrenewable licenses, (7) the Federal Advisory Committee Act of October 6, 1972, (8) reports on the potential Blue Lakes Primitive Area, and (9) the Nevada Fish and Game/BLM coordination meeting.

Carson City. November 20, at 9 a.m., at the Bureau of Land Management District Office. The agenda contains seven items: (1) Reorganization of the board, (2) consider 1974-75 grazing applications, (3) grazing closure of major five areas, (4) IBLA Decision 72-301 re transfer of grazing privileges, (5) Section 7 transfers, (6) adjustment of advisory board precincts, and (7) wild horse and burro regulations.

Las Vegas. November 27, at 9 a.m., at the Bureau of Land Management District Office. The agenda contains nine items: (1) Organization of the Board, (2) grazing applications, (3) transfers of grazing privileges, (4) Section 4 permit applications, (5) soil and watershed program, (6) range improvement program, (7) wildlife projects and plans, (8) wild horse and burro regulations, and (9) discuss BLM Instruction Memo 73-309 re policy on private investments.

Battle Mountain. November 28, at 9 a.m., at the Bureau of Land Management District Office. The agenda contains nine items: (1) Consideration of 1974 grazing license applications, (2) consideration of base property transfers and base property privilege transfers, (3) consideration of proposed 1974 range improvement projects, (4) recommendations on range divisions, (5) discussion of wild horse and burro regulations, (6) recommendations to fulfill a vacancy on the advisory board, (7) consideration of the Eureka Management Framework Plan recommendations, (8) consideration for redesignating advisory board members, and (9) election of advisory board officers.

Elko. November 29, at 9 a.m., at the Bureau of Land Management District Office. The agenda contains six items: (1) 1973-1974 grazing applications, (2) range improvement program, (3) status of multiple use planning, (4) wild horse and burro regulations, (5) transfer of grazing privileges, and (6) Federal Advisory Committee Act of October 6, 1972.

Ely. December 3, at 9 a.m., at the Bureau of Land Management District Office. The agenda contains six items: (1) Grazing applications for 1974-1975, (2) transfers of grazing privileges, (3) range improvement applications and projects, (4) wild horse and wildlife privileges, (5) planning system progress in the Ely district, and (6) other matters that might be brought to the attention of the Board.

Protest meetings will be held at the above districts on tentative dates listed below. The agenda will consist of hearing protests on any actions determined or considered adverse during the regular advisory board meeting. Meeting times and places will be the same as for the regular meetings scheduled above.

Ely—December 14
Carson City—December 18
Elko—December 20
Battle Mountain—January 10
Winnemucca—January 11
Las Vegas—January 10

All meetings will be open to the public. Written and oral statements are welcome. Written statements should be addressed to advisory board chairmen, as follows:

Winnemucca—District Advisory Board Chairman, P.O. Box 71, Winnemucca, Nevada 89445

Carson City—District Advisory Board Chairman, 801 N. Plaza Street, Carson City, Nevada 89701
Las Vegas—District Advisory Board Chairman, P.O. Box 3, Las Vegas, Nevada 89101
Battle Mountain—District Advisory Board Chairman, P.O. Box 194, Battle Mountain, Nevada 89820
Elko—District Advisory Board Chairman, 2002 Idaho Street, Elko, Nevada 89801
Ely—District Advisory Board Chairman, c/o Bureau of Land Management, Pioche Star Route, Ely, Nevada 89301

ROGER MCCORMACK,
Acting State Director.

[FR Doc.73-22765 Filed 10-25-73;8:45 am]

PRICE DISTRICT ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Price District Advisory Board will hold meetings on November 7, 1973, and December 12, 1973, at 9 a.m., at the Conference Room, Price District BLM Office, 900 North 7th East, Price, Utah. The agenda for the initial meeting will include considering applications and making recommendations for grazing privileges on the national resource lands for the 1974 grazing year, applications for range improvements, and progress in claiming horses under the Wild Horse and Burro Act. The agenda for the second meeting will include reorganization of the Advisory Board, hearing protests on proposed allocation of grazing privileges, reports of district programs, and proposed plans for the following year.

The meetings will be open to the public as space is available. Time will be available for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Advisory Board Chairman prior to the meeting of the Board. Any interested person may file a written statement with the Board for its consideration. The Advisory Board Chairman is Ellis Wild, Ferron, Utah 84523. Written statements should be submitted to Mr. Wild, c/o District Manager, Bureau of Land Management, P.O. Drawer AB, Price, Utah 84501.

GLENN W. FREEMAN, Jr.,
District Manager.

[FR Doc.73-22764 Filed 10-25-73;8:45 am]

National Park Service

ROCKY MOUNTAIN NATIONAL PARK, COLORADO

Notice of Public Hearings Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with Departmental procedures as identified in 43 CFR 19.5 that public hearings will be held beginning at 2:00 p.m. on January 26, 1974, in the Auditorium in Building 56, Denver Federal Center, at West 6th Street, and Kipling Street, Denver, Colorado, and on January 28, 1974, at 2:00 p.m. in the Ranger Station Auditorium, at Shadow Mountain Village, which is 2½ miles south of Grand Lake, Colorado, and on January 30, 1974, at 2:00 p.m. in the Rocky Mountain Headquarters Auditorium, Estes Park, Colorado, for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness within the Rocky Mountain National Park, Boulder, Larimer, and Grand Counties, Colorado.

The wilderness proposal for Rocky Mountain National Park includes about 238,000 acres. All lands proposed for wilderness are presently within the exterior boundaries of the park. Rocky Mountain National Park is located in North Central Colorado 65 miles from Denver.

Packets containing draft master plans, maps depicting the preliminary boundaries of the proposed wilderness areas, and draft environmental impact statements for the proposals may be obtained from the Superintendent, Rocky Mountain National Park, Estes Park, Colorado 80517, or from the Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

Descriptions of the preliminary boundaries and maps of the areas proposed for establishment as wilderness are available for review in the above offices and in Room 1210 of the Interior Building at 18th and C Streets NW., Washington, D.C.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearings. In order to be included on the hearing program, notify the Hearing Officer in care of the Superintendent, Rocky Mountain National Park, Estes Park, Colorado 80517, by January 16, 1974.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the transcribed hearing records. However, all materials so presented at the hearings shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.
(2) Members of Congress.
(3) Members of the State Legislature.
(4) Official representative of the counties in which the proposed wilderness is located.
(5) Officials of other Federal agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Dated October 17, 1973.

STANLEY W. HULETT,
Associate Director,
National Park Service.

[FR Doc.73-22484 Filed 10-19-73;8:45 am]

Office of the Secretary

[INT DES 73-61]

PROPOSED INDEPENDENCE NATIONAL HISTORICAL PARK, PENNSYLVANIA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for the Proposed Independence National Historical Park, Area F, Pennsylvania.

The draft environmental statement considers the physical and social effects of acquiring 1.348 acres of land in Philadelphia and entering into an agreement with the city for the development of a public parking facility upon the acquired land.

Written comments on the environmental statement are invited and will be accepted for a period of forty-five (45) days following publication of this notice. Comments should be addressed to the Regional Director, Northeast Region or the Superintendent, Independence National Historical Park at the addresses given below.

Copies are available from or for inspection at the following locations.

Northeast Regional Office
National Park Service
143 South Third Street
Philadelphia, Pennsylvania 19106
Superintendent
Independence National Historical Park
313 Walnut Street
Philadelphia, Pennsylvania 19106

Dated October 18, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary
of the Interior.

[FR Doc.73-22791 Filed 10-25-73;8:45 am]

[INT FES 73-61]

PROPOSED INDIAN VALLEY PROJECT FOR YOLO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Notice of Availability of a Supplement to the Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of Interior has prepared a supplement to the final environmental statement (FES 11-71) for the proposed dam and reservoir for the

Yolo County Flood Control and Water Conservation District, Yolo and Lake Counties, California, under the PL 84–984 small loan program.

The supplement concerns the question of possible adverse effects of the operation of Indian Valley Dam and Reservoir on the water surface levels on Clear Lake in Lake County, California. Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202–343–4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, telephone 303–234–3007.

Office of the Regional Director, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone 916–484–4571.

Single copies of the supplement to the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151. Please refer to the statement number above.

Dated October 18, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73–22790 Filed 10–25–73;8:45 am]

SOLICITOR, DEPARTMENT OF THE INTERIOR

Delegation of Authority

Notice is hereby given that the Under Secretary of the Interior has amended the delegation of authority to the Solicitor of the Department of the Interior. The amended delegation of authority modifies the previous delegation by authorizing the Solicitor to arbitrate, compromise or settle claims under the Suits in Admiralty Act, pursuant to the authority granted by section 3 of the Act of August 29, 1972 (46 U.S.C., Sec. 749, Sup. II). The amended delegation, also, clarifies the authority of the Solicitor with respect to intellectual property including patents, inventions, trademarks, and copyrights.

The revised delegation of authority has been promulgated by a revision to Chapter 2 of Part 210 of the Departmental Manual (Release No. 1575 dated September 14, 1973). Revised Chapter 2 is printed below in its entirety. The numbering system is that of the Departmental Manual.

DEPARTMENTAL MANUAL PART 210,
CHAPTER 2

.1 *General authority.*—The Solicitor is authorized to exercise all authority of the Secretary respecting the legal work of the Department, subject to the limitations contained in 200 DM 1.4.

.2 *Authority in specified matters.*—A. The Solicitor is authorized to exercise the authority of the Secretary:

(1) Conferred by the provisions of 28 U.S.C., sec. 2672, with respect to tort claims;

(2) With repect to claims under 25 U.S.C., sec. 388, for damage arising out of the survey, construction, operation, or maintenance of irrigation works on Indian irrigation projects; and under Public Works for Water Appropriation Acts, for damage to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation;

(3) With respect to the disposition of appeals to the Secretary;

(a) Involving estates of Indians of the Five Civilized Tribes and Osage Indians;

(b) Pertaining to enrollment of Indians, pursuant to 25 CFR, Part 42;

(c) From decisions of the Appellate Division of the High Court of American Samoa which affirm sentences of death pursuant to Section 3.0505, as amended, of the Code of American Samoa (1961 Ed.).

(4) To supervise, administer, and control all activities within or on behalf of the Department relating to intellectual property including patents, inventions, trademarks, and copyrights.

(5) When acting upon a proposal by a bureau, to acquire real estate for the United States by condemnation pursuant to section 1 of the Act of August 1, 1888, as amended (40 U.S.C., sec. 257) whenever in the opinion of the Solicitor it is necessary or advantageous to the Government to do so and to submit to the Attorney General of the United States applications for the institution of proceedings for condemnation;

(6) Under section 1 of the Act of February 26, 1939 (41 U.S.C., sec. 258a), to sign declarations of taking;

(7) When acting upon a proposal to acquire real estate for the United States pursuant to section 3 of the Helium Act (50 U.S.C., sec. 167a) by condemnation pursuant to section 1 of the Act of August 1, 1888, as amended (40 U.S.C., sec. 257) whenever the Solicitor determines that a satisfactory agreement to acquire such land or interests in land cannot be made and that such acquisition by condemnation is necessary in the national interest and to submit to the Attorney General of the United States applications for the institution of proceedings for condemnation;

(8) Under 43 CFR Part 2, with respect to the availability of official records and testimony of employees; and

(9) With respect to the settlement of claims against the United States by employees for damage to, or loss of personal property pursuant to the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C., secs. 240–243).

(10) Claims arising under the Act of March 9, 1920 (46 U.S.C., secs. 742, 747, 749, and 750), as amended by Public Law 92–417, also known as the Suits in Admiralty Act.

B. The Solicitor is authorized:

(1) To determine, compromise, and settle claims and demands of the United States pursuant to section 12 of the Act of August 20, 1937, as amended (16 U.S.C., sec. 832k);

(2) If he determines in connection with a claim under a contract that, as a matter of justice and equity, all or any part of the liquidated damages assessed on or after July 1, 1949, because of delay, against a party to a contract made by the Department on behalf of the Government should be remitted, to recommend to the Comptroller General that such remission be made, pursuant to the provisions of 41 U.S.C., sec. 256a;

(3) To accept on behalf of any Secretarial Officer service of Judicial process and service of process issued by the legislation branch of the Government; and

(4) To enter into, modify or terminate contracts for services or supplies which are required for the Office of the Solicitor.

.3 *Authority to Redelegate.*—The Solicitor may, in writing, redelegate, or authorize written redelegation of any authority delegated to him in this chapter. For redelegations of authority see the Solicitor's Regulations.

Dated October 18, 1973.

JAMES T. CLARKE,
Assistant Secretary of the Interior.

[FR Doc.73–22792 Filed 10–25–73;8:45 am]

HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

Decision of the Secretary

In accordance with section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. section 725) there was published in Part II of the Federal Register for December 9, 1972 (37 FR 26379–26380) a notice of proposed rulemaking to amend Part 57, Subchapter N, Chapter I, Title 30, Code of Federal Regulations. Interested persons were afforded a period of 30 days following publication of the notice within which to submit written data, views, arguments and objections to the proposed standards. Such period was subsequently extended to January 31, 1973 (38 FR 2219).

Included among the comments, suggestions and objections received in response to the notice of proposed rulemaking was a request by the American Mining Congress on behalf of its member companies, for a public hearing with respect to proposed mandatory standards 57.11–53, 57.15–30, 57.15–31 and 57.18–28, which had been designated as "Mandatory" standards by the Secretary and which had not been recommended as "Mandatory" standards by the Metal and Nonmetal Mine Safety Advisory Committee.

On April 25, 1973 a notice was published in the FEDERAL REGISTER (38 FR 10156) which set forth the objections which had been filed and upon which a hearing had been requested and gave notice that a public hearing, commencing on Monday, May 21, 1973, at 9 a.m., m.d.t., at the Airport Holiday Inn, Denver, Colorado would be conducted by an

Administrative Law Judge, Office of Hearings and Appeals, Department of the Interior, to receive evidence relevant and material to the issues raised by the Objections which had been filed. The notice further provided that the Administrative Law Judge would consider all objections and based upon the record submit a recommended decision to the Secretary of the Interior who would review the recommendation decision and issue the final decision.

Among those organizations which were represented and actively participated in the public hearing were the American Mining Congress, the National Crushed Stone Institute, the United Steel Workers of America, the United States Bureau of Mines, the Colorado Bureau of Mines, and several metal and nonmetal mining companies. At the conclusion of the hearing the parties were allowed 30 days from availability of the transcript of the proceedings to file statements of facts and arguments in support of their positions.

The Honorable John R. Rampton, Jr., Administrative Law Judge, has submitted to the Secretary a recommended decision dated September 13, 1973 after carefully considering the sworn statements of testimony presented, the exhibits admitted into evidence and the statements of facts and arguments.

Notice is given that based upon the substantial evidence of record made at the public hearing, the recommended decision, which is set forth below, is hereby adopted and ratified as the final decision of the Secretary of the Interior in this matter.

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

OCTOBER 19, 1973.

RECOMMENDED DECISION

SEPTEMBER 13, 1973.

In the matter of: Proposed rulemaking, 37 FR 26379–26380, December 9, 1972, Title 30 CFR 57, Health and Safety Standards, Metal and Nonmetallic Underground Mines.

In accordance with Section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. § 725), a notice of proposed rulemaking, setting forth proposals to amend Part 57, Chapter I, Title 30, Code of Federal Regulations, relating to certain health and safety standards applicable to underground mines subject to the Act, was published in the FEDERAL REGISTER December 9, 1972. The notice of proposed rulemaking as amended provided that on or before January 31, 1973, any person who may be adversely affected by a proposed standard which is designated as a mandatory standard by the Secretary of the Interior may file with the Secretary of the Interior written objections stating the ground for such objections and requesting a public hearing.

As a result of the comments and requests for public hearing submitted, a hearing was held on May 21, 22, 1973, at Denver, Colorado, at which testimony was presented by the U.S. Bureau of Mines,[1] the American Mining Congress, the United Steel Workers of America, the National Crushed Stone Association, the Colorado Bureau of Mines and several metal and nonmetal mining companies. At the conclusion of the hearing the parties were allowed 30 days from availability of the transcript of the proceedings to file statements of facts and arguments in support of their position. Such statements were received from the U.S. Bureau of Mines, the American Mining Congress, United Steel Workers and the Diamond Crystal Salt Company. This decision is based on exhibits, sworn statements of testimony presented at the hearing, and upon the submitted statements.

GENERAL FINDINGS

The purpose of the proposed mandatory safety standards 57.11–53, 57.15–30, 57.15–31, and 57.18–29, is to provide miners in underground mines with maximum protection in emergency situations. The proposed standards are designed to protect anyone who goes underground against, and as far as is humanly possible to eliminate, serious injuries and loss of life resulting from mine fires. A great majority of underground mines contain combustible materials and have fire potential. Typically, underground mining operations use fuels, oils, lubricants, solvents, rubber, paper, cloth, plastic and hydrocarbon products. Underground workings are often artificially supported with timber. Certain metal and nonmetal mine ores contain hydrocarbon or sulphides which may, under certain circumstances, be combustible (Tr. 127–128). Mine fires occur because of many reasons and all mines have potential fire hazards (Tr. 38). While underground stone quarry operations are nongaseous and the product is noncombustible, wood or other combustible supports may be involved in these operations. Mining methods involve the use of both gasoline and diesel-powered equipment which are potential sources of a fire underground (Government Exhibit 13).

None of the parties appearing at the hearing expressed opposition to the objectives sought to be achieved by the proposed standards. In fact, the American Mining Congress (AMC) in its opening statement made the following comment:

We must emphasize that neither in our comment submitted to the Bureau, nor in our presentation today, do we express any opposition to the end sought to be achieved by the proposed standards. In fact, we endorse the increased margin of safety which these standards will provide. Specifically, we endorse the preparation and use of detailed escape and evacuation plans in the mine * * * the distribution and use of self-rescuers in underground mines * * * and training in the use of self-rescuers and general mine emergency training * * *.

[1] Secretarial Order 2953 issued on May 7, 1973, established within the Department of the Interior the Mining Enforcement and Safety Administration which is responsible for administering health and safety and education and training functions under the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740) that were carried out by the Bureau of Mines. The Mining Enforcement and Safety Administration became operative on July 16, 1973 (38 FR 18665–18668 and 18695–18696).

The objections to the proposed mandatory standards were directed to the details involved in the implementation and application of the standards. At the conclusion of the hearing counsel for the AMC stated:

* * * the record will show as far as our objections are concerned we are not in any way opposed to the principles embodied in any of the proposed standards, but it is simply a matter of finding the best way to accomplish a desired end. (Tr. 252)

Each proposed mandatory standard will be considered in the order upon which testimony was received at the hearing.

MANDATORY STANDARD 57.15–30

Proposed mandatory standard 57.15–30 reads:

A 1-hour self-rescue device approved by the Bureau of Mines shall be made available by the operator to all personnel underground. Each operator shall maintain self-rescue devices in good condition.

At the hearing the AMC endorsed the issuance of self-rescuers by management to all persons going underground (Tr. 15, 58, 59), and realistic periodic checks of the devices by management to insure that they are serviced (Tr. 62). The position of the AMC is simply that the standard as proposed apparently and mistakenly placed the entire responsibility for the "maintenance" of the devices on the operator (Tr. 61; Statement and Proposed Findings P. 7). In support of this position, the following arguments were given.

(1) Self-rescuers are issued to individuals as personal equipment (Tr. 33, 34, 61). The individual retains possession of his device and when not actually wearing it, stores it with other personal equipment such as hard hat, lamp belt, gloves, etc.

(2) Self-rescue devices cannot be "maintained" (Tr. 32–33).

(3) The checking of a self-rescue device to determine its operable condition is a simple visual inspection which anyone who has completed the Bureau of Mines course for that particular device can perform (Tr. 32, 60).

(4) The person in the best position to perform that inspection on a day-to-day basis is the individual to whom the device was issued (Tr. 32, 49, 61). Since the device is issued to protect the individual he is likely to take better care of it and inspect it more closely than an individual who will never have to use the device (Tr. 62).

At the conclusion of the hearing, the AMC proposed that the mandatory safety standard read as follows:

57.15–30 *Mandatory.* A 1-hour self-rescue device approved by the Bureau of Mines shall be made available by the operator to all personnel underground. The operator shall promptly replace open, leaking or otherwise defective self-rescue devices. The operator shall periodically check self-rescue devices in accordance with the manufacturer's recommended procedures and shall remove outdated or defective devices from service immediately.

The position of the Bureau of Mines and the United Steel Workers is that the final responsibility for employee health and safety rests with the mine operator and that the operator is ultimately responsible for maintaining each self-rescue device in good condition (Tr. 30, 43, 48–49).

The detection and reporting of defective self-rescuers is covered in proposed standard

57.18–28 (Tr. 30, 31). Under this regulation underground personnel will be instructed to examine their self-rescuers for external damages and to report defective units to their employer before going underground (Tr. 31–32).

Significant to the consideration of proposed mandatory standard 57.15–30 is the experience of the San Manuel Division of Magna Mining and Concentrating operation in Arizona, which provides self-rescuers for everyone going into their mine. Everyone is instructed in its use and is required to carry a self-rescue device underground (Tr. 58). Most miners at the Magma Copper Mine are very meticulous about the equipment they have which may mean life or death to them and they accept this responsibility (Tr. 62).

Based on the recognition that no one knows the self-rescuers better than the miners and the supervisors, it is the policy of Magma Copper Company to have each supervisor make a visual check of the devices on the miners' belts and insist that the miner do the same thing at the start of each shift.

It would appear from the testimony presented that the practices of Magma Copper Company provide for the maximum of safety to underground personnel and that any mandatory standard be worded to implement these practices.

The Bureau of Mines' instruction guide, pages 2 and 3 (Government Exhibits 4 and 5), provide information on how to perform checks on the self-rescuer to "maintain" the device in good condition. It is feasible to specify in the standard how often the device should be checked (Tr. 33) since it is the requirement's intent of the standard to require continuous checks so that the self-rescuer is always in good condition and serviceable (Tr. 39). It is, therefore, the responsibility of each operator to establish and maintain an effective inspection and replacement program which will include how often, by whom, and where the devices are to be inspected.

The only difference between the standard as proposed by the AMC and the standard as proposed by the Bureau of Mines is that in the latter proposal, the operator is charged with the final responsibility to see that all self-rescue devices are fully operable and if they are damaged or broken to have them replaced. This can only be done through regular inspection by a supervisor and by the training of each miner to recognize and report defective or damaged self-rescue devices. The operator cannot escape final responsibility. If an inspection of the mine performed by an agency charged with the duty of enforcing the mandatory safety standards reveals that a self-rescue device taken underground is defective, it is the operator who will be charged with a violation. The wording of the mandatory safety standard as proposed by the Bureau of Mines effectively accomplishes the purpose of the standard, which is to provide maximum protection to the miner and place the responsibility for protection of the miner upon the operator.

Proposed mandatory standard 57.15–30, as published in the FEDERAL REGISTER, December 9, 1972, is therefore, adopted without change.

MANDATORY STANDARD 57.15–31

Proposed mandatory standard 57.15–31, reads:

Self-rescue devices meeting the requirements of Standard 57.15–30 shall be carried by all persons underground, except where a person works on or around mobile equipment self-rescue devices may be placed in a readily accessible location on such equipment.

Under this proposed standard, persons working on or around mobile equipment may be allowed to place the self-rescuer on the equipment. This exception applies only to the person operating the mobile equipment (Tr. 113).

It was proposed that men underground should be allowed to remove the self-rescuer in places such as lunch rooms (Tr. 108, 109, 120), hoist rooms (Tr. 95, 100, 109, 110), or when working at drafting boards (Tr. 122). The AMC's position is that there are circumstances underground where it is not advisable to wear a self-rescuer so long as one is readily available. The AMC also proposed that the mandatory safety standard allow removal of the self-rescue devices and place them in a location readily available by persons when the wearing or carrying of them is hazardous to an individual or to the device.

Mine fires and explosions can and do occur at times and places least expected. The Sunshine Mine fire investigation report revealed that fire occurred while many men were eating lunch away from their regular working places. The Bureau of Mines has reports of fourteen other mine fires since the Sunshine fire which also reflect irregularity of time and place of occurrence. Wherever a fire or explosion occurs, the Bureau of Mines recommends that the first action necessary on the part of the miner is to proceed immediately to escapeways and exit the mine as soon as possible.

Investigation by the Bureau of Mines into the Sunshine Mine fire revealed that self-rescuers were stored at all active shaft stations (Tr. 86). These devices were placed in wooden boxes with small locks (which were easily broken), to prevent theft and tampering (Tr. 92). This meant that during the Sunshine Mine fire, the miners had to travel through smoke and carbon monoxide in order to reach the self-rescuers. Those miners so exposed would undoubtedly have an elevated carbon monoxide content in their blood before the self-rescue devices could be used. (Tr. 86–87).

It is apparent that there should be no weakening of a standard requiring self-rescue devices to be worn underground by all miners. Even though underground personnel are well trained, panic may occur when there is a fire or explosion in a mine. The immediate reaction of a miner is to move toward the nearest exit and he should not have to scramble for his self-rescue device. Therefore, although the wearing of a self-rescue device in lunch rooms or at drafting boards in underground shops may be an inconvenience to the miner, the paramount consideration is safety, not comfort or convenience.

On the other hand, a convincing argument can be made for the proposition that if the wearing of a self-rescuer creates a hazard to the individual or to the device itself, permission should be given for the individual to remove the device and put it in an immediate accessible location. The regulations (30 CFR 75.1714–2) implementing the Federal Coal Mine Health and Safety Act of 1969, provide for just such contingency.

Self-rescue devices are rugged and will withstand all normal abuse. However, they are not indestructible. If a miner's work involves such close quarters that this self rescuer is repeatedly jarred or bumped, its seal may be broken and the device rendered useless. Further, if an underground worker is required by a mandatory safety regulation to wear a self-rescuer in work situations where the self-rescuer will endanger his safety, the purpose of the regulation is not achieved. The Bureau of Mines' position was that if a mine operator encounters a situation in which he feels that the wearing of a self-rescuer poses a hazard, he may apply for a variance under 30 CFR 57.24 (Tr. 89). This procedure requires the operator to demonstrate that under the variance requested "the health and safety of all persons which the mandatory standard is designed to protect will be no less assured."

This burden may not be so onerous as the AMC fears. However, there is no reason for imposing such burden if the standard applied is realistic in its application. It is recognized that there are work conditions underground where it is more hazardous to a miner to wear a self-rescuer than to have it placed within a readily accessible location. The regulation will, therefore, read:

57.15–31 *Mandatory.* (a) except as provided in paragraphs (b) and (c) of this section, self-rescue devices meeting the requirements of standard 57.15–30 shall be worn or carried by all persons underground.

(b) Where the wearing or carrying of self-rescue devices meeting the requirements of standard 57.15–30 is hazardous to a person, such self-rescue devices shall be located at a distance no greater than 25 feet from such person.

(c) Where a person works on or around mobile equipment, self-rescue devices may be placed in a readily accessible location on such equipment.

MANDATORY STANDARD 57.18–28

On December 9, 1972, there was proposed a new mandatory standard 57.18–28, as follows:

57.18–28 *Mandatory.* Within 6 months after promulgation of this standard and thereafter on an annual basis all underground employees shall be instructed in the Bureau of Mines approved courses on mine emergency training and the use of self-rescue devices by Bureau personnel or by qualified persons who are certified by the Bureau of Mines Division of Education and Training Services to give such instruction. Instructional materials, handouts, visual aids, and other teaching accessories used in these courses shall be available for inspection by the Secretary or his authorized representative.

New employees shall be trained in the use of self-rescue devices before going underground. Such training of new employees may be conducted by qualified company personnel who are not certified but who have obtained provisional approval from the Bureau of Mines Division of Education and Training Services to conduct such training.

Records of all training shall be kept at the mine site, or nearest mine office. Upon completion of such training, copies of the record shall be submitted to the nearest Bureau of Mines Training Center.

As a result of comments submitted prior to the hearing, the Bureau of Mines submitted a revised version of standard 57.18–28 at the time they presented their direct evidence at the hearing. This version reads: (Tr. 136–137)

57.8–28 *Mandatory.* (a) Within 6 months after promulgation of this standard and thereafter on an annual basis all persons who are required to go underground shall be instructed in the Bureau of Mines approved course contained in Bureau of Mines Instruction Guide 19, "Mine Emergency Training" (September 1972). The instruction shall be given by Bureau personnel or by persons who are certified by the Bureau of Mines, Division of Education and Training Operations, to give such instruction.

(b) Within 6 months after promulgation of this standard and thereafter on an annual basis all persons who go underground shall be instructed in the Bureau of Mines course contained in Bureau of Mines Instruction Guide 2, "MSA W–65 Self-Rescuer" (March 1972) or Bureau of Mines Instruction Guide 3, "Permissible Drager 810 Respirator for Self-Rescue" (March 1972). The instruction shall be given by Bureau personnel or by persons who are certified by the Bureau of Mines, Division of Education and Training

Operations to give such instructions; provided, however, that if a Bureau of Mines instructor or a certified instructor is not immediately available such instruction of new employees in self-rescuers may be conducted by qualified company personnel who are not certified, but who have obtained provisional approval from the Bureau of Mines, Division of Education and Training Operations, to give such instruction. Any person who has not had self-rescuer instruction within 12 months immediately preceding going underground shall be instructed in the use of self-rescuers before going underground.

(c) All instructional material, handouts, visual aids, and other such teaching accessories used by the operator in the courses prescribed in paragraphs (a) and (b) shall be available for inspection by the Secretary or his authorized representative.

(d) Records of all instruction shall be kept at the mine site or nearest mine office at least 2 years from the date of instruction. Upon completion of such instruction, copies of the record shall be submitted to the nearest Bureau of Mines training center.

(e) The Bureau of Mines instruction guides to which reference is made in items (a) and (b) of this standard are hereby incorporated by reference and made a part hereof. The incorporated instruction guides are available and shall be provided upon request made to any Bureau of Mines training center or Metal and Nonmetal Mine Health and Safety Subdistrict office.

After considering the revised revision, the AMC objected only to the requirement in subsection (d), that training records be submitted to the Bureau on a continuing basis (Statement and Proposed Findings, page 27). The AMC's position is that this information is available to Bureau inspectors at the mine site; that ever-increasing demands to businessmen for submission of reports and records to Washington have created a "paper war" of enormous proportions and generate more contempt than impressive statistics (Tr. 169–170).

The AMC also contends that the requirement that records of instructions be submitted to the Bureau runs afoul of the Federal Reports Act (44 U.S.C. 3501 *et seq.*) which provides, in pertinent part:

§ 3501. Information for Federal agencies.

Information needed by Federal agencies shall be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information, and at a minimum cost to the Government. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by a Federal agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

Specifically the AMC recommends that subsection (d) be modified by deleting the second sentence.

The Bureau of Mines' position is that the submission of records of instruction to Bureau Training Center will allow the prompt issuance of certificates to each miner attesting to the completion of such instruction. The certificate will be useful in the event a miner leaves his present job and is reemployed by another underground mine. By examining the training certificate, the new employer will be able to determine readily whether or not the new employee must receive instruction in the use of self-rescuers before going underground.

Submission of instruction records to the Bureau will serve a twofold purpose in that it will provide an up-to-date record for comparison of effectiveness of training courses and in the event the miner changes jobs and has lost his certificate, a call by the mine operator to the subdistrict office will provide immediate information. Finally, these records will serve as a basis for evaluation of training and progress, and supply detailed information to be included in the Secretary's report to Congress which he is required to submit annually (Tr. 133–134).

In addition, testimony was given by Bureau of Mines witnesses that the records are part of a Nation-wide research effort to find out just what is causing accidents. The records are submitted to the Health and Safety Analysis Center, where the Bureau performs cross-correlations to determine the effectiveness of the training, what additional training should be made and the impact this training has on accident prevention (Tr. 140).

The sole maintenance of the log at the mine would be inadequate to meet the need of availability of records of such training by the Bureau of Mines.

It appears that the need for the records to be submitted to the Bureau of Mines outweighs the additional burden placed upon the mine operator. Because of the need and usefulness of such records, such submission as provided in subparagraph (d) of the proposed mandatory standard should be required and is not violative of the Federal Reports Act, supra, and its implementing regulations.

Proposed mandatory standard 57.18–28 as revised and submitted by the Bureau of Mines at the hearing is, therefore, adopted.

MANDATORY STANDARD 57.11–53

On December 9, 1972, there was proposed a revocation of mandatory standard 57.4–50, and revision of mandatory standard 57.11–53 to read as follows:

57.11–53 *Mandatory.* A specific escape and evacuation plan and revisions thereof suitable to the conditions and mining system of the mine shall be developed by the operator and set out in written form. Within 45 calendar days after promulgation of this standard a copy of the plan and revisions thereof shall be available to the Secretary or his authorized representative. Also copies of the plan and revisions thereof shall be made available to the miners and their representatives and shall be posted at locations convenient to all persons on the surface and underground. Such a plan shall be updated as necessary and shall be reviewed jointly by the operator and the Secretary or his authorized representative at least once every 6 months from the date of the last review. The plan shall include:

(a) Mine maps showing directions of principal airflow, locations of escape routes, telephones, fans, fan controls, fire doors, ventilation doors, exits, and refuge chambers. Appropriate portions of such maps shall be posted at all shaft stations and in underground shops, lunchrooms, and elsewhere in working areas where men congregate.

(b) Procedures to show how the miners will be notified of emergency and by whom.

(c) An escape plan for each working area in the mine to include instruction showing how each working area should be evacuated. Each such plan shall be posted at appropriate shaft stations and elsewhere in working areas where men congregate.

(d) A firefighting plan showing assigned responsibilities in the event of an emergency.

(e) Procedures for surface personnel to follow in an emergency, to include the notification of proper authorities, preparing rescue equipment, checking fans, and other vital equipment, and maintaining such equipment.

(f) Details of provisions for communication and transportation facilities, for emergency power and ventilation, and availability and location of rescue personnel and equipment.

After review of the written data submitted by interested parties, the Bureau of Mines revised the proposed mandatory standard 57.11–53 to read as follows (Tr. 203–204):

57.11–53 *Mandatory.* A specific escape and evacuation plan and revisions thereof suitable to the conditions and mining system of the mine and showing assigned responsibilities of all key personnel in the event of an emergency shall be developed by the operator and set out in written form. Within 45 calendar days after promulgation of this standard a copy of the plan and revisions thereof shall be available to the Secretary or his authorized representative. Also copies of the plan and revisions thereof shall be made available to the miners and their representatives upon their request and shall be posted at locations convenient to all persons on the surface and underground. Such a plan shall be updated as necessary and shall be reviewed jointly by the operator and the Secretary or his authorized representative at least once every six months from the date of the last review. The plan shall include:

(a) Mine maps or diagrams showing directions of principal air flow, location of escape routes and locations of existing telephones, primary fans, primary fan controls, fire doors, ventilation doors, and refuge chambers. Appropriate portions of such maps or diagrams shall be posted at all shaft stations and in underground shops, lunchrooms, and elsewhere in working areas where men congregate.

(b) Procedures to show how the miners will be notified of emergency.

(c) An escape plan for each working area in the mine to include instructions showing how each working area should be evacuated. Each such plan shall be posted at appropriate shaft stations and elsewhere in working areas where men congregate.

(d) A fire fighting plan.

(e) Surface procedures to follow in an emergency, including the notification of proper authorities, preparing rescue equipment, checking fans, and other vital equipment, and maintaining such equipment.

(f) Availability of emergency communication and transportation facilities, emergency power and ventilation, and location of rescue personnel and equipment.

This revision presented at the hearing rectified all of the objections made except for what the AMC construes as ambiguities in the wording of subsections (e) and (f). It feels that the reference to checking fans and other vital equipment and maintaining such equipment in subsection (e) could easily be construed or misinterpreted as requiring fans, when there is no Federal mandatory standard which requires the use of fans in underground mines. In addition, the AMC states that the use of phrases "and other vital equipment and maintaining such equipment" is ambiguous and gives no clue to what "other vital equipment" means.

Similarly, the AMC recommends that the phrase "a statement of the" be inserted in revised proposed subsection (f) before the word "availability".

Both suggestions have merit. As testified to by Mr. Thomas J. Shepich, Chief of the Division of Safety, Metal and Nonmetal Mine Health and Safety, Bureau of Mines, the Bureau has no intent to require such equipment under this standard if such equipment is not otherwise required by other Federal standards (Tr. 201).

The proposed revisions as suggested by the AMC would clarify rather than minimize or weaken the effect and intent of the pro-

posed mandatory standards. These proposals are, therefore, accepted and the proposed mandatory standard 57.11-53, as presented by the Bureau of Mines at the hearing, is accepted with the following change.

Subsection (e)—Surface procedures to follow in an emergency, including the notification of proper authorities, preparing rescue equipment, and other equipment which may be used in rescue and recovery operations.

Subsection (f)—A statement of the availability of emergency communication and transportation facilities, emergency power and ventilation, and location of rescue personnel and equipment.

Submitted by:

JOHN R. RAMPTON, Jr.,
Administrative Law Judge.

[FR Doc.73-22810 Filed 10-25-73;8:45 am]

ROBERT V. HUGO

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of September 4, 1973.

Dated September 4, 1973.

ROBERT V. HUGO.

[FR Doc.73-22766 Filed 10-25-73;8:45 am]

MODESTO IRIARTE, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months.

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of September 18, 1973.

Dated September 18, 1973.

MODESTO IRIARTE, Jr.

[FR Doc.73-22767 Filed 10-25-73;8:45 am]

JOHN H. KLINE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of September 6, 1973.

Dated September 6, 1973.

JOHN H. KLINE.

[FR Doc.73-22769 Filed 10-25-73;8:45 am]

CLIFTON F. ROGERS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of September 10, 1973.

Dated September 10, 1973.

CLIFTON F. ROGERS.

[FR Doc.73-22770 Filed 10-25-73;8:45 am]

STANLEY M. SWANSON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of September 15, 1973.

Dated September 19, 1973.

STANLEY M. SWANSON.

[FR Doc.73-22768 Filed 10-25-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A027]

SOUTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in South Carolina:

Charleston	Georgetown
Florence	Williamsburg

The Secretary has further found that such general need for agricultural credit existing in these areas cannot be met temporarily by private, cooperative, or other responsible sources at reasonable rates and terms for loans for similar purposes and periods of time, and that the need for such credit in such areas is the result of a natural disaster consisting of excessive rainfall. Charleston County suffered from excessive rainfall from June 11-19, 1973. Florence County had an unusual amount of rainfall from June 10 to August 15, 1973. Georgetown County suffered from excessive rainfall during the periods June 4-15, 1973, and August 19-23, 1973. The excessive rainfall in Williamsburg County occurred from May 25 through June 30, 1973.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-24, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor John C. West that such designation be made.

Applications for Emergency loans must be received by this Department prior to December 10, 1973, for physical losses and prior to July 12, 1974, for production losses except that qualified borrowers who received initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of October 1973.

J. R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.73-22786 Filed 10-25-73;8:45 am]

Forest Service

WHITE MOUNTAIN NATIONAL FOREST ADVISORY COMMITTEE

Notice of Meeting

The White Mountain National Forest Advisory Committee will meet at 1:30 p.m., November 7, 1973, at the Margate Resort in Laconia, New Hampshire.

The purpose of this meeting is to discuss purpose and future plans of committee.

The meeting will be open to the public. Persons who wish to attend should notify Steve Harper, White Mountain National Forest, 719 Main Street, Laconia, New Hampshire 03246. Telephone Number 603 524-6450.

STEPHEN C. HARPER,
For PAUL D. WEINGART,
Acting Forest Supervisor.

OCTOBER 19, 1973.

[FR Doc.73-22815 Filed 10-25-73;8:45 am]

Office of the Secretary

PACIFIC COMMODITIES EXCHANGE, INC.

Order Designating the Pacific Commodities Exchange, Inc., as Contract Market for Live Cattle

Pursuant to the authorization and direction contained in the Commodity Ex-

change Act as amended (7 U.S.C. 1 et seq.), I hereby designate the Pacific Commodities Exchange, Inc., of San Francisco, California, as a contract market for live cattle effective on this date, as shown below. The said exchange has applied for, and has otherwise complied with the requirements imposed by the said Act as a condition precedent to, such designation.

The designation is subject to suspension or revocation in accordance with the provisions of the said Act. For the purpose of any such suspension or revocation, this designation and the order issued by the Acting Assistant Secretary of Agriculture on August 1, 1972, and the Assistant Secretary of Agriculture on February 9, 1973, designating the said exchange as a contract market for the commodities specified in said orders, may constitute either a single designation or several designations.

Issued this 19th day of October 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-22861 Filed 10-25-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

ECOLOGY TWO CORP.

Filing of Application for Construction-Differential Subsidy

Notice is hereby given that Ecology Two Corp. has filed an application dated October 10, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended, for a construction-differential subsidy to aid in the construction of three approximately 90,000 deadweight tons new tank vessels for use in the foreign commerce of the United States.

Any interested person may inspect this application in the Office of the Secretary, Room 3099B, Maritime Administration, Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230.

Dated October 17, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

AARON SILVERMAN,
Assistant Secretary.

[FR Doc.73-22865 Filed 10-25-73;8:45 am]

UNITED STATES LINES, INC.

Tanker Construction Program

An environmental impact statement entitled, Maritime Administration Tanker Construction Program, NTIS Report No. EIS 730725-F, was published on May 30, 1973. The impact statement concerns proposed assistance to private industry to aid in the construction in the United States of a fleet of oil carrying vessels during the decade of the 1970's. Vessel classes included range from approximately 35,000 DWT to 400,000 DWT.

The Maritime Subsidy Board has received the following application for assistance under the Tanker Construction Program and has determined that the vessels to be reconstructed with such assistance are of the type, design and characteristics of those vessels treated in the above mentioned impact statement. As a consequence the Board has determined that no supplement to the impact statement mentioned herein, nor any new impact statement, need be prepared with respect to these vessels. Future Board action with respect to the application will be, from an environmental standpoint, based on the above mentioned impact statement. This application is:

United States Lines, Inc.—Application for reconstruction of four C4-S-57a Challenger I Class general cargo vessels to 80,000 DWT tankers (redesignated T8-S-57b). The section of the ship containing the machinery and superstructure is to be reused and the remainder new. A segment of the hull containing only the machinery space will be entirely encased within a new larger hull arranged for carrying bulk petroleum, and the superstructure containing all the accommodations will be separated from the original hull, modified and elevated to suit the new installation. All structure in way of the cargo spaces, cargo piping, pumps, etc. will be new. A cargo space double bottom is included in the design but remains optional at this time.

The vessels, as converted, will be similar to MarAd Design T8-S-100b described in detail in section II of the impact statement as the example of "Intermediate Tanker." Seven ships of the T8-S-100b design are now under construction at NASSCO for Aeron Marine Shipping Company and Third Group, Inc. and are known as the "San Clemente" class tanker. Originally designed as a conventional single-skinned tanker, the "San Clemente" design was altered to include a double bottom in the cargo spaces after contract signing. Both versions are described in the impact statement.

The bases for the Board's determination, as described herein, are available for public inspection in the Office of the Secretary, Room 3099B, Maritime Administration, Commerce Department Building, 14th & E Streets, NW., Washington, D.C. 20230.

Dated October 23, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

AARON SILVERMAN,
Assistant Secretary.

[FR Doc.73-22866 Filed 10-25-73;8:45 am]

National Oceanic and Atmospheric Administration

REGULATED COMMERCIAL FISHERIES

Closure of Season

Notice is hereby given pursuant to § 240.23(a), Title 50, Code of Federal Regulations, as follows:

On October 23, 1973 the Director, National Marine Fisheries Service, determined that U.S. fishing vessels operating in regulatory area-Subarea 5, east of 69°00′ W. longitude, defined in § 240.1 (b) (5) and referred to in § 240.21 (b) (2) had reached, based upon the accumulative landings to date and the projected incidental catch of yellowtail flounder, 100 percent of the 1973, annual catch limit of 15,000 metric tons as described in § 240.21 (b) (2), published in the FEDERAL REGISTER on April 9, 1973 (38 FR 9018).

I hereby announce that the season for taking yellowtail flounder without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate, the regulatory area, east of 69°00′ W. longitude at 0001 hours local time October 31, 1973. The closure will remain in effect until 0001 hours local time January 1, 1974.

Issued at Washington, D.C., and dated October 24, 1973.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.73-22888 Filed 10-25-73;8:45 am]

Office of the Secretary

NEW YORK BIGHT MESA ADVISORY COMMITTEE

Notice of Establishment

In accordance with the provisions of the Federal Advisory Committee Act (P.L. 92-463) and OMB/Justice Department guidelines on the Act, pursuant to authority delegated by the Secretary of Commerce, and after consultation with the Office of Management and Budget, I hereby determine that the establishment of the New York Bight MESA Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee will collect, analyze, and synthesize information on the needs and uses for marine ecosystem information in the N.Y. Bight, on scientific and technical efforts in and related to the Bight, and on the concerns and views of citizens and industrial organizations regarding the Bight in order to advise the Administrator of the National Oceanic and Atmospheric Administration (NOAA) on the conduct, content, and coordination of the MESA N.Y. Bight Project.[1]

The Committee shall have an Information User Advisory Panel, a Scientific and Technical Advisory Panel, and a Citizen and Industrial Advisory Panel. The N.Y. Bight Project Manager for the NOAA MESA Program shall chair the Committee, and a designated NOAA employee shall chair each panel.

The Committee and each of its panels shall consist of a balanced representation of interests. The member organizations will be designated by the Administrator, NOAA, and will be invited to name representatives, subject to the concurrence of the Administrator. The Committee will be responsible and report to the Director of NOAA's MESA Program.

The Committee and its panels shall function solely as advisory bodies, and in compliance with the requirements of P.L. 92-463. The Committee's charter

[1] MESA: Marine Ecosystems Analysis.

shall be filed under P.L. 92-463, thirty days from the date of this notice.

Dated October 19, 1973.

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.73-22801 Filed 10-25-73;8:45 am]

Patent Office

APPLICATIONS RELATING TO ENERGY

"Special Status" Procedures

In his message of April 18, 1973, to the Congress "Concerning Energy Resources," the President stated that "with 6 percent of the world's population, we consume almost a third of all the energy used in the world." The President noted that our energy demands "now outstrip our available supplies, and a tour present rate of growth, our energy needs a dozen years from now will be nearly double what they were in 1970." The President's message of April 18 called for the development of a more comprehensive, integrated national energy policy and announced specific steps to carry out the policy. On June 29, 1973, the President announced a series of additional actions to deal with the nation's energy problem. Among those actions were major efforts in energy research and development and in energy conservation.

In order to enhance and further the goals and actions announced by the President, the Patent Office will, on request, accord "special" status to all patent applications for inventions which materially contribute to (1) the discovery or development of energy resources, and (2) the more efficient utilization and conservation of energy resources. Examples of inventions in category (1) would be those relating to further developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (2) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. In order that the Patent Office may implement this procedure, we request that all applicants desiring to participate in this program request that their applications be accorded "special" status. Such requests should be written, should identify the application by serial number and filing date, and should be accompanied by affidavits or declarations under rule 102 by the applicant or his attorney or agent explaining how the invention materially contributes to category (1) or (2) set forth above.

Requests should be addressed to the Commissioner of Patents, Washington, D.C. 20231.

Dated: October 26, 1973.

RENE D. TEGTMEYER,
Acting Commissioner of Patents.

Approved:

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.73-22887 Filed 10-25-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Notice of Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
1. Panel on Review of Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Drugs.	October 31 and November 1, 9 a.m. Room 1400, FOB No. 8, 200 C St. SW., Washington, D.C.	Open October 31, 9 a.m. to 10 a.m., closed October 31 after 10 a.m.; closed November 1. Thomas D. DeCillis, Room 10B-05, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drugs containing cold, cough, allergy, bronchodilator, and antiasthmatic agents.

Agenda. Continued evaluation of safety, efficacy, and labeling of ingredients related to products previously submitted by interested parties.

Committee name	Date, time, place	Type of meeting and contact person
2. Skeletal Muscle Relaxant Subcommittee of Neuropharmacology Advisory Committee.	November 14, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open 9 a.m. to 12 noon, closed after 12 noon. Frederick Jordan, M.D., Ph.D., Room 10B-30, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3870.

Purpose. Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in neuropharmacology.

Agenda. Open session: Discussion with industry toward developing a guideline protocol for future drugs in this class. Closed session: Discussion of final conclusions and recommendations regarding individual drugs.

Committee name	Date, time, place	Type of meeting and contact person
3. Dental Drug Products Advisory Committee.	Nov. 20, 9 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open 9 a.m. to 10 a.m., closed after 10 a.m. Clarence C. Gilkes, D.D.S., Room 12B-06, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3500.

Purpose. Advises the Commissioner regarding safety and efficacy of drugs and related products employed in the practice of dentistry and the current advances, changing concepts, and trends in the field.

Agenda. Review of data submitted by manufacturers on topical fluoride rinses and other products; discussion of special guidelines for clinical investigators on dental drug products (all closed). Closed session will involve review of confidential data submitted by manufacturers. Open session will provide opportunity for discussion of nonconfidential aspects, with industry, relative to the agenda, as well as public comment and submission of recommendations and data pertinent to the interests of this committee.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided that this type of discussion would remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank

discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated October 23, 1973.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.73-22908 Filed 10-25-73;8:45 am]

TRI-VALLEY GROWERS

Canned Peaches, Canned Pears and Canned Fruit Cocktail Deviating From Identity Standards; Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Tri-Valley Growers, 100 California St., San Francisco, CA 94106. This permit covers limited interstate marketing tests of canned peaches, canned pears and canned fruit cocktail that deviate from their respective standards of identity (21 CFR 27.2, 27.20 and 27.40) in that the canned peaches and canned pears will be packed in sweetened fruit nectar prepared from the same fruit that is being packed. The canned fruit cocktail will be packed in sweetened peach nectar and pineapple juice. The nectars will be prepared in accordance with the provisions set forth in the stayed fruit nectar identity standard (21 CFR 27.126). The sweetness level for the entire contents of the can will be within the 14° to 16° Brix range.

The principal display panel of the labels on the canned peaches and pears will declare the names of the packing media, "in sweetened _____ nectar" (the blank to be filled in with the name of the fruit being packed). In addition, the statement "in peach nectar for more natural flavor" or "in pear nectar for more natural flavor" will appear on the label. The label used on the canned fruit cocktail product will bear the name of the packing medium "in sweetened peach nectar and pineapple juice" and the statement "in fruit nectar for more natural flavor".

This permit is effective for one year. The one year period will begin on the date the new foods are introduced or caused to be introduced into interstate commerce but no later than January 26, 1973.

Dated October 18, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-22753 Filed 10-25-73;8:45 am]

Health Resources Administration

ADVISORY BODIES

Notice of Meeting and Agenda

The Administrator, Health Resources Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble the month of November 1973:

Committee name	Date, time, place	Type of meeting and/or contact person
Joint Council Work Group Area III "Dissemination of Research Findings Including Technical Assistance".	November 1-2, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Contact Russell Z. Seidel, Room 15-35, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-2940.

Purpose. A work group of the National Advisory Health Services Council and the Federal Hospital Council to explore methods for developing better utilization of the results of research projects sponsored by the Bureau of Health Services Research and Evaluation.

Agenda. The work group will discuss methods of developing better utilization of the results of research projects sponsored in the Bureau.

Committee name	Date, time, place	Type of meeting and contact person
National Advisory Health Services Council.	November 13, 1 p.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed—Contact Russell Z. Seidel, Room 15-35, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-2940.

Purpose. The Council is charged with advising on policies, needs, and requirements for research and development designed to increase effectiveness and efficiency of medical care and health services. Council is also charged with the final review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research and Evaluation.

Agenda. The Council will review grant applications which contain trade secrets, commercial or financial information obtained from a person and privileged or confidential and will be closed to the public in accordance with the determination made by the Administrator, Health Resources Administration pursuant to the provisions of Public Law 92-463, section 10(d).

Committee name	Date, time, place	Type of meeting and/or contact person
Joint Meeting of the Federal Hospital Council and the National Advisory Health Services Council.	November 14, 9 a.m., Conference Room G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Contact Russell Z. Seidel, Room 15-35, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., Code 301-443-2940.

Purpose. The Councils are charged with advising on policies and regulations under Title III and Title VI of the Public Health Service Act.

Agenda. The Councils will be receiving reports from the Acting Director and staff members of the Bureau of Health Services Research and Evaluation relative to program plans and priorities. Reports will be submitted from the three Joint Council work groups.

Committee name	Date, time, place	Type of meeting and contact person
Federal Hospital Council.	November/14-15, 2 p.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—November/14 (2-4 p.m.) and November/15 (10 a.m.-12 p.m., Closed—November/15 (9-10 a.m., Contact Russell Z. Seidel, Room 15-35, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., Code 301-443-2940.

Purpose. The Council is charged with advising on policies and regulations under Title VI of the Public Health Service Act and to provide final review of grant applications for Federal assistance in the program area administered by the Bureau of Health Services Research and Evaluation.

Agenda. The Council will review research grant applications which contain trade secrets, commercial or financial information obtained from a person and privileged or confidential and will be closed to the public for that portion of the meeting in accordance with the determination made by the Administrator, Health Resources Administration, pursuant to the provisions of Public Law 92-463, section 10(d). The meeting will be open to the public for that portion when the Director, Health Care Facilities Service submits his report.

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Council on Regional Medical Programs.	November 26-27, 9 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—9-12 a.m., Closed—remainder of meeting. Contact Mr. Kenneth Baum, Room 11-11, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., Code 301-443-1520.

Purpose. The Council advises and assists the Secretary in the preparation of regulations for, and as to policy matters arising with respect to the administration of this Program. Reviews applications for grants under Title IX, and recommends to the Secretary with respect to approval of applications for, and the amounts of, grants under this Title.

Agenda. The Council will discuss policy matters and conduct other business, and this portion of the meeting shall be open to the public. The remainder of the meeting will be devoted to the review of grant applications, and will be closed to the public, in accordance with the determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463, section 10(d).

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Council on Nurse Training.	November 28-30, 10 a.m., Conference Room 4, Building 31, National Institutes of Health, Bethesda, Md.	Closed—Contact Dr. Mary S. Hill, Federal Bldg., Room 6C-08, 5600 Rockville Pike, Bethesda, Md. Code 301-496-6985.

Purpose. Perform final review of applications for construction projects, special projects for the improvement of nurse training, and research grants. Recommends approval, disapproval, or deferral action to the Administrator, Health Resources Administration.

Agenda. The Council will conduct a final review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Health Resources Administration, pursuant to the provisions of Public Law 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the open/closed sessions may be obtained from the contact persons listed above.

Dated October 23, 1973.

KENNETH M. ENDICOTT, M.D.,
Administrator,
Health Resources Administration.

[FR Doc.73-22910 Filed 10-25-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

KENTUCKY

Notice of Proposed Action Plan

The Kentucky Department of Transportation has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed Action Plan as required by Policy and Procedure Memorandum 90-4 issued on June 1, 1973. The Action Plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social and environmental effects are fully considered in developing highway projects and that final decisions on highway projects are made in the best overall public interest, taking into consideration: (1) Needs for fast, safe and efficient transportation; (2) public services; and (3) costs of eliminating or minimizing adverse effects.

The proposed Action Plan is available for public review at the following locations:

1. Kentucky Department of Transportation
   Bureau of Highways
   State Office Building
   High and Clinton Streets
   Frankfort, Kentucky 40601
2. Kentucky Division Office—FHWA
   330 West Broadway
   Frankfort, Kentucky 40601
3. FHWA Regional Office—Region 4
   Office of Environment and Design—Room 208
   1720 Peachtree Road, NW.
   Atlanta, Georgia 30309
4. U.S. Department of Transportation
   Federal Highway Administration
   Environmental Development Division
   Nassif Building, Room 3246
   400 7th Street S.W.
   Washington, D.C. 20590

Comments from interested groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA Regional Office shown above before November 23, 1973.

Issued on October 18, 1973.

R. R. BARTELSMEYER,
Deputy Federal Highway Administrator.

[FR Doc.73-22738; Filed 10-25-73;8:45 am]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE EXECUTIVE SUBCOMMITTEE

Notice of Public Meeting

On November 2, 1973, the National Highway Safety Advisory Committee's Executive Subcommittee will hold an open meeting at the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C.

The National Highway Safety Advisory Committee is composed of 35 members appointed by the President in accordance with the Highway Safety Act of 1966 (23 U.S.C. 401 et seq.). The Committee consists of representatives of State and local governments, State legislatures, public and private interests contributing to, affected by, or concerned with highway safety, other public and private agencies, organizations, and groups demonstrating an active interest in highway safety, and research scientists and other experts in highway safety.

The Advisory Committee advises, consults with, and makes recommendations to the Secretary of Transportation on matters relating to the activities of the Department in the field of highway safety. The Committee is specifically authorized (1) to review research projects and programs, and (2) to review, prior to issuance, standards proposed to be issued by the Secretary under the national highway safety program.

The Executive Subcommittee will meet from 9:00 a.m. to 1:00 p.m. in room 4238 of the DOT Headquarters Building with the following agenda, subject to the approval of the Secretary:

Preparation of Detailed Agenda for November 26-27 Meeting.
Review of Recent Activities of the Committee.

This notice is given pursuant to section 10(a)(2) of Pub. L. 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Further information may be obtained from the Executive Secretariat, National Highway Traffic Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued on October 18, 1973.

CALVIN BURKHART,
Executive Secretary.

[FR Doc.73-22737 Filed 10-25-73;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Notice of Meeting

OCTOBER 24, 1973.

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on November 8-10, 1973, in Room 1046, 1717 H Street NW., Washington, D.C. 20545.

The following constitutes that portion of the Committees agenda for the above meeting which will be open to the public:

(1) *Thursday, November 8, 1973: 9:45 a.m.*—12:30 p.m.; 1:30 p.m.—3:30 p.m.—*Catawba Nuclear Plant Units 1 and 2* (planned to be located on Lake Wylie, in York County, South Carolina)—Review, application for a construction permit. The Committee will hear presentations by representatives and consultants of the AEC Regulatory Staff and the Duke Power Company and will hold discussions with these groups.

The Committee will hold closed sessions during this period, under the authority of subsection 10(d) of Public Law 92-463, if required, to discuss security plans for this facility and privileged information related to fuel element design, fabrication and performance, and loss-of-coolant accident analysis.

4:30 p.m.-7:00 p.m.—*Report on the Relationships of Earthquakes and Geology in West Tennessee and Adjacent Areas*—The Committee will conduct a preapplication review of this report. Representatives and consultants of the Tennessee Valley Authority and the AEC Regulatory Staff will make presentations to and discuss this report with the Committee.

(2) *Friday, November 9, 1973:* 8:45 a.m.-10 a.m.—*Report by the Regulatory Staff on the following:*

(a) Site evaluation—Newbold Island Plant

(b) Containment vacuum breaker malfunction—Browns Ferry Unit No. 1 and Vermont Yankee

(c) Evaluation of Seismic Fault—N. Anna Station

(d) Fuel Element Performance—Dresden Station Unit No. 1

(e) Fuel Element Performance—Pilgrim Station/Vermont Yankee Plant

11 a.m.-12:30 p.m.; 1:30 p.m.-4:00 p.m.—*Indian Point Nuclear Generating Station Unit No. 3* (the facility is located at Buchanan, New York) Operating license. The Committee will hear presentations from and hold discussions with representatives and consultants of the Consolidated Edison Company and the AEC Regulatory Staff.

The Committee will hold closed sessions during this period, under the authority of subsection 10(d) of Public Law 92-463, if required, to discuss security plans for this facility and privileged information regarding fuel element design, fabrication and performance, and loss-of-coolant accident analysis.

It should be noted that, in addition to the agenda items noted above, the Committee will hold Executive Sessions not open to the public under the authority of subsection 10(d) of Public Law 92-463 (the Federal Advisory Committee Act), to consider the above applications and other matters. I have determined that it is necessary to close such portions of the meeting described above to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than November 1, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such written comments shall be based on materials related to the above agenda items, i.e., applicaton for a Construction Permit (Catawba); application for an operating license (Indian Point); Tennessee Valley Authority Report "Relationships of Earthquakes and Geology in West Tennessee and Adjacent Areas"; and any related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545, and as follows:

Catawba Nuclear Plants Units Nos. 1 and 2 York County Public Library, 325 South Oakland, Rock Hill, South Carolina 29730.

Indian Point Nuclear Generating Station Unit No. 3 Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman of the Committee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Committee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on November 7, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m., e.s.t.

(e) Questions may be propounded only by members of the Committee and its consultants.

(f) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C., on or after January 9, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.73-22968 Filed 10-25-73;8:45 am]

[Docket No. 50-295]

COMMONWEALTH EDISON CO.

Notice of Availability of Initial Decision and Issuance of Amendment to Facility Operating License

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations, Appendix D, Sections A.9 and A.11, to 10 CFR Part 50, notice is hereby given that an Initial Decision, dated October 5, 1973, was issued by the Atomic Safety and Licensing Board in the above captioned proceeding authorizing the issuance of operating licenses to Commonwealth Edison Company for the Zion Nuclear Power Station, Units 1 and 2, located in Zion, Lake County, Illinois. A copy of the Initial Decision is available for inspection by the public at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois. A copy of the Initial Decision is also being made available at the Office of Planning and Analysis, Executive Office of the Governor, Room 614, State Office Building, Springfield, Illinois 62706, and at the

Northeastern Illinois Planning Commission, 400 W. Madison Street, Chicago, Illinois.

Based upon the record developed in the above captioned matter, the Initial Decision modified in certain respects the contents of the Final Environmental Statement relating to the operation of the Zion Nuclear Power Station prepared by the Commission's Directorate of Licensing. Pursuant to the provisions of 10 CFR Part 50 Appendix D, Section A.11, the Final Environmental Statement is deemed modified to the extent that the findings and conclusions relating to environmental matters contained in the Initial Decision are different from those contained in the Final Environmental Statement dated December 1972. As required by Section A.11 of Appendix D, a copy of the Initial Decision, which modifies the Final Environmental Statement, has been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

The Initial Decision authorizes the issuance of a license up to 100% of rated power. However, after reviewing the docket for 50-295, the Director of Regulation has determined that the docket does not contain sufficient information on the steam line check valves to justify operation in excess of 85 percent of rated power. When this information has been submitted, the Regulatory staff will take appropriate action. In addition, information regarding plant performance during the initial Zion Unit 1 fuel cycle will be required for review and evaluation by the Regulatory staff and the Advisory Committee on Reactor Safeguards (ACRS) prior to granting authorization to operate above 85 percent of rated power. These limitations are in accordance with the restrictions and conditions set forth in paragraphs 9.37, 48 and 49 of the Initial Decision relating to the main steam line check valve, fuel densification, and the ACRS recommendation to limit power until after the first refueling of Zion Unit 1. Accordingly, the amended license authorizes Commonwealth Edison Company to operate the Zion Nuclear Power Station, Unit 1, at steady state reactor core power levels not in excess of 2760 megawatts thermal (85 percent of rated power).

When construction of Unit 2 is satisfactorily completed, a facility operating license will be issued for the Zion Nuclear Power Station, Unit 2.

The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the amended license. The application for the license complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Chapter 1.

The amended license is effective as of the date of issuance and shall expire at midnight on December 26, 2008.

In addition to the Initial Decision, a copy of Amendment No. 3 to Facility Operating License No. DPR-39, and other relevant documents are available for public inspection at the above designated locations in Washington, D.C., and Waukegan, Illinois. Single copies of the Initial Decision, Amendment No. 3 to Facility Operating License No. DPR-39, the Final Environmental Statement and the Safety Evaluation Report may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing, Regulation.

Dated at Bethesda, Maryland, this 19th day of October 1973.

For the Atomic Energy Commission.

KARL R. GOLLER,
Chief, Pressurized Water Reactors Branch No. 3, Directorate of Licensing.

[FR Doc.73-22813 Filed 10-25-73;8:45 am]

[Docket Nos. STN 50-454—STN 50-457]

COMMONWEALTH EDISON CO.

Notice of Receipt of Application

Commonwealth Edison Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application which was docketed on September 20, 1973, for authorization to construct and operate four pressurized water nuclear power reactors at its Byron and Braidwood sites. The application was tendered on February 28, 1973. Following a preliminary review for completeness, the application was rejected on April 11, 1973, for lack of sufficient information. The applicant submitted additional information on May 21, 1973. The Preliminary Safety Analysis Report was found to be acceptable for docketing; however, the Environmental Report was not acceptable. On August 16, 1973, the applicant filed additional environmental material, and the application was found to be acceptable for docketing. This application has been docketed under one of the options of the Commission's standardization policy for nuclear power plants. The applicable option involves a limited number of duplicate plants to be constructed within a limited time span by a utility or a group of utilities. Docket Nos. STN 50-454 and STN 50-455 for Units 1 and 2, respectively, at the Byron site and STN 50-456 and STN 50-457 for Units 1 and 2, respectively, at the Braidwood site have been assigned to this application and should be referenced in any correspondence relating to it.

The Byron site is located on a rectangular shaped site about two miles east of the Rock River and approximately three miles southwest of Byron in Ogle County, north central Illinois. The Braidwood site is located in north central Illinois, near the town of Braidwood, in Will County, approximately 60 miles southwest of Chicago and 24 miles southwest of Joliet.

Each of the proposed nuclear units, designated by the applicant as the Byron Station, Units 1 and 2, and the Braidwood Station, Units 1 and 2, are designed for initial operation at approximately 3425 megawatts thermal with a net electrical output of approximately 1120 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before December 26, 1973. The request should be filed in connection with Docket Nos. STN 50-454-A, STN 50-455-A, STN 50-456-A, and STN 50-457-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, at the Byron Public Library, 3rd and Washington Streets, Byron, Illinois 61010, and at the Wilmington Township Public Library, 201 South Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, separate Environmental Reports for the Byron and Braidwood Stations. The reports, which discuss environmental considerations related to the proposed construction of the Byron and Braidwood Stations have been made available for public inspection at the aforementioned locations, and are also being made available at the Northeastern Illinois Planning Commission, 400 W. Madison Street, Chicago, Illinois, at the Office of Planning and Analysis, Executive Office of the Governor, Room 614, State Office Building, Springfield, Illinois 62706, and at the Kankakee County Regional Planning Commission, 291 S. Harrison, Kankakee, Illinois 60901.

After the Environmental Reports have been analyzed by the Commission's Director of Regulation or his designee, draft environmental statements related to the proposed action will be prepared by the Commission. Upon preparation of the draft environmental statements, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statements. The summary notice will request comments from interested persons on the proposed action and on the draft statements. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare final environmental statements, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 11th day of October 1973.

For the Atomic Energy Commission.

KARL R. GOLLER,
Chief, Pressurized Water Reactors Branch No. 3, Directorate of Licensing.

[FR Doc.73-22742 Filed 10-25-73;8:45 am]

[Docket Nos. STN 50-454-50-157]

COMMONWEALTH EDISON CO.

Notice of Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Commonwealth Edison Company, for construction permits for four standardized pressurized water nuclear reactors designated as the Byron Station, Units 1 and 2, and the Braidwood Station, Units 1 and 2 (the facilities), each of which is to be designed for initial operation at approximately 3425 megawatts thermal with a net electrical output of approximately 1120 megawatts. The proposed facilities are to be located in Ogle and Will Counties in north central Illinois, respectively.

This application has been docketed under one of the options of the Commission's standardization policy for nuclear power plants. The applicable option involves a limited number of duplicate plants to be constructed within a limited time span by a utility or a group of utilities.

The hearing will be scheduled to begin in the vicinity of the sites of the proposed facilities. The hearing will be conducted by an Atomic Safety and Licensing Board (Board) which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Mr. Gustave A. Linenberger, Dr. John R. Lyman, and Jerome Garfinkel, Esq., Chairman. Dr. George A. Ferguson has been designated as a technically qualified alternate, and Carl W. Schwarz, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

Upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application and an environmental review and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicant:

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

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

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

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

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and contruct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permits should be issued as proposed.

In the event that this proceeding is not a contested proceeding as defined by 10 CFR § 2.4(n), the Board will determine (1) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made by the Director of Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Regulation; and (2) determine whether the review conducted by the Commission pursuant to NEPA has been adequate. In the event that the proceeding is not contested, the Board will convene a prehearing conference of the parties at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will consider Items 1–5 above as a basis for determining whether the construction permits should be issued to the applicant.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held at such time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a. Notice of the special prehearing conference will be published in the FEDERAL REGISTER.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference, after discovery has been completed, or within such other time as may be appropriate, at a time and place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR § 2.752.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (1) determine whether the requirements of section 102(2)(C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

For further details, see the application for construction permits and the applicant's Environmental Reports which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of those documents are also available at the Byron Public Library, 3rd and Washington Streets, Byron, Illinois, for public inspection between the hours of 7 p.m. and 8:30 p.m. on Monday, and 3 p.m. and 5 p.m. on Tuesday, Wednesday and Thursday, and 9:30 a.m. and 11:30 a.m. on Friday and Saturday, and at the Wilmington Township Public Library, 201 South Kankakee Street, Wilmington,

Illinois, for public inspection between the hours of 1 p.m. and 5 p.m. on Monday, 1 p.m. and 8:30 p.m. on Tuesday, Wednesday, and Thursday, and 10 a.m. and 4 p.m. on Friday and Saturday. As they become available, a copy of the Safety Evaluation Report by the Commission's Directorate of Licensing, the Commission's draft and final detailed statements on environmental considerations, the report of the Advisory Committee on Reactor Safeguards (ACRS), the the proposed construction permits, other relevant documents, and the transcripts of the prehearing conferences and of the hearing will also be available at the above locations. Copies of the Directorate of Licensing's safety evaluation and the Commission's final detailed statement on environmental considerations, the proposed construction permits, and the ACRS report may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, United States Atomic Energy Commission, Washington, D.C. 20545.

Any person who does not wish to, or is not qualified to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, not later than November 26, 1973.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR § 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A petition for leave to intervene must be filed with the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., not later than November 26, 1973. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a)(1)–(4) and 2.714(d).

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

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicant not later than November 15, 1973.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petition or request for limited appearance should also be sent to the Chief Hearing Counsel, Office of the General Counsel, U.S. Atomic Energy Commission, Washington, D.C. 20545 and to John W. Rowe, Esq., Isham, Lincoln and Beale, One First National Plaza, Suite 4200, Chicago, Illinois 60670, attorney for the applicant.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

With respect to this proceeding, pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 17th day of October 1973.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-22743 Filed 10-25-73;8:45 am]

LMFBR BASE PROGRAM

Proposed Determination

On June 12, 1973, the U.S. Court of Appeals for the District of Columbia Circuit held in *Scientists Institute for Public Information, Inc.*, v. *AEC* that present preparation of an environmental impact statement on the Liquid Metal Fast Breeder Reactor (LMFBR) program is required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). The Commission, on June 14, 1973, determined that preparation of an environmental impact statement on the LMFBR program would immediately be initiated pursuant to the Court's decision. It is presently estimated that a NEPA impact statement on the LMFBR program will require approximately 8 to 12 months to complete.

The Commission has already prepared and issued section 102(2)(C) impact statements on a conceptual LMFBR demonstration plant and on the Fast Flux Test Facility. In addition to these statements and the overall statement called for by the Court's decision, the Commission will issue further environmental impact statements in connection with licensing of construction and operation of the first LMFBR Demonstration Plant as well as any other future LMFBR power plants, as provided for in AEC Regulations (10 CFR Part 50, Appendix D.)

The opinion of the Court of Appeals in the referenced litigation noted that an injunction against continuation of the program pending completion of an impact statement had not been sought in this case and the Court accordingly intimated no views concerning such relief. The Court's opinion also states that "there is no indication that, aside from not preparing an impact statement, the AEC has given insufficient weight to environmental values in charting the LMFBR program's present course." On July 11, 1973, following a remand of the case to the District Court "for the entry of appropriate declaratory relief," plaintiffs (Scientists' Institute for Public Information, Inc.) moved to enjoin the Commission from, *inter alia*, executing the LMFBR Demonstration project contracts and undertaking various other program actions during the NEPA review period. The District Court denied the requested injunctive relief and entered a final declaratory order providing for completion of the LMFBR program impact statement within twelve months from June 14, 1973. Plaintiffs appealed that order to the Court of Appeals which, on July 20, 1973, denied requests for an injunction pending appeal and for

summary reversal. The plaintiffs filed a motion to dismiss the appeal on August 8, 1973.

There is, accordingly, no legal bar to proceeding with the LMFBR program during the period of preparation of the referenced NEPA impact statement. Nevertheless, the Commission has determined that an examination should be made as to whether such proceeding would be inconsistent with its NEPA responsibilities in regard to environmental protection, or would prejudice its ability to make the required NEPA review and take whatever action may be appropriate in light thereof.

In undertaking this interim NEPA examination, the Commission has utilized factors anologous to those developed for determinations as to whether to suspend certain reactor construction permits and operating licenses pending completion of the section 102(2)(C) reviews. These determinations were required as a result of the decision of the Court of Appeals for the District of Columbia Circuit in the *Calvert Cliffs'* litigation.[1] The factors utilized are set forth in 10 CFR Part 50, Appendix D, section E.2. An additional factor has been added to recognize the subsequent decision of the Court of Appeals for the District of Columbia Circuit in *Coalition For Safe Nuclear Power* v. *AEC, et al* (463 F.2d 954), which involved judicial review of the interim NEPA review approach.

On July 20, 1973, the AEC issued its determination and findings based on an interim environmental review, concerning the execution and implementation of the LMFBR Demonstration Plant contracts. This determination was made after review of comments received on a proposed determination published in the FEDERAL REGISTER on June 29, 1973. AEC determined that little or no environmental impact would result from these contract activities and, accordingly, that the contracts could be executed and thereafter implemented during the limited period of the ongoing NEPA review of the entire LMFBR program (38 FR 19853).

The review encompassed in the present documents relates to the LMFBR base technology program. This program entails analytical, experimental and proof-testing activities and encompasses the construction and operation of experimental testing facilities to provide information on breeder plant design, plant systems and components, instrumentation and control, sodium technology, fuels and materials, fuel cycle, physics, and safety under operating conditions simulating those that will be encountered when LMFBR plants are in service. With limited exception, all contract work to be performed in connection with the LMFBR base program during the review period is a continuation of prior work.

As applied to continuation of the LMFBR base program, the Commission, in making the determination at hand, has considered and balanced the following factors:

1. Whether it is likely that the continuation of LMFBR base program activities during the prospective review period will give rise to a significant adverse impact on the environment; the nature and extent of this impact, if any; and whether redress of any adverse environmental impact can reasonably be effected should modification, suspension or termination of program activities result from the NEPA environmental review.

2. Whether continuation of the LMFBR base program activities during the perspective review period would foreclose subsequent adoption of alternatives.

3. The effect of any delay in the LMFBR base program upon the public interest.

4. Whether the additional irretrievable commitment of resources to the LMFBR base program during the prospective review period might affect the eventual decision reached on the NEPA review.

The results of the examination are set forth in a document entitled, "Proposed Findings Supporting Determination in Regard to LMFBR Base Program Pending Preparation of a section 102(2)(C) NEPA Impact Statement." Based thereon the Commission proposes to determine that:

1. Continuation of the LMFBR base program during the period of preparation of the NEPA impact statement will not give rise to any significant adverse impact on the environment; and that the limited impact that may occur will be redressable should the full NEPA review of the program indicate that a different course of action is advisable.

2. Subsequent adoption of program alternatives—including cessation of the program itself—would not be foreclosed by continuation of the LMFBR base program during the limited period of the NEPA review. All work performed in connection with this program can be terminated by AEC at any time.

3. Should continuation of the LMFBR base program be consistent with the outcome of the full NEPA program review, discontinuance of base program activities until the NEPA program review is completed would adversely affect the public interest since (a) it would result in delay in realizing the availability of a key energy option for the Nation, with significant adverse consequences in terms of increased program costs and substantial dollar penalties in higher costs of electricity, and (b) it could result in compromising program viability by the loss of key management and engineering personnel in the many organizations involved in the program.

4. The expenditure of resources by the AEC and the other program participants during the limited period (8 to 12 months) of the NEPA review of the program (approximately $190 to $300 million), while not insubstantial, will not be of such magnitude, taken in relationship to monies already expended on the LMFBR program ($1.3 billion) or monies projected to be expended during the course of completion of the LMFBR program ($3–4 billion), as to constitute an irrevocable commitment to the continuation of the base technology program; nor will it affect the eventual outcome of the NEPA review of the LMFBR program. Industrial participants have spent, and will continue to spend, their resources at their own risk since all base program activities are subject to alteration or termination pending the outcome of the NEPA program review. In the event the NEPA review suggests discontinuance of the base program in its presently projected dimensions, the accomplishments in design and analysis during this period will contribute to the technology of designing and constructing reliable components for nuclear power plants of all designs.

Upon consideration and balancing of the above factors, the Commission proposes to determine that the LMFBR base program may be continued during the limited period of the NEPA review.

A copy of the Proposed Findings document is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. Copies may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: General Manager.

Interested persons who desire to submit written comments or suggestions for Commission consideration in connection with this examination and the Commission's final determination thereon should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, on or before November 17, 1973. Copies of comments received by the Commission may be examined at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C.

Dated at Washington, D.C., October 23, 1973.

For the Commission:

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc. 73-22812 Filed 10-25-73;8:45 am]

[Docket Nos. 50-448, 50-449]

POTOMAC ELECTRIC POWER CO.

Notice and Order for Prehearing Conference

Take notice, on August 31, 1973, the Commission published in the FEDERAL REGISTER, 38 FR 23549, a notice of hearing to consider the applications filed by the Potomac Electric Power Company for construction permits for the Douglas Point Nuclear Generating Station, Units 1 and 2. Pursuant to the notice, a Prehearing Conference will be held at the Hearing Room, 8120 Woodmont Avenue, Bethesda, Maryland, commencing at 9:30 a.m., local time, on November 14, 1973.

At that time, consideration will be given to the following:

[1] *Calvert Cliff's Coordinating Committee, Inc.* v. *Atomic Energy Commission*, 449 F.2d 1109 (DC Cir 1971).

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

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

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

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

The public is invited to attend. Limited appearance statements will not be accepted at this proceeding but will be accepted at the commencement of the evidentiary hearing to be scheduled at a later date.

It is so ordered.

Issued at Washington, D.C., this 23d day of October 1973.

ATOMIC SAFETY AND LICENSING BOARD,
ELIZABETH S. BOWERS,
Chairman.

[FR Doc.73-22814 Filed 10-25-73;8:45 am]

[Docket Nos. 50-434 and 50-435]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

The Virginia Electric and power Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed September 14, 1973, for authorization to construct and operate two generating units utilizing pressurized water nuclear reactors. The application was initially tendered on April 11, 1973. Following a preliminary review for completeness, the Preliminary Safety Analysis Report was found to be acceptable for docketing; however, the Environmental Report was rejected for lack of sufficient information. The applicant submitted additional information on September 14, 1973, and the application was found acceptable for docketing. Docket Nos. 50-434 and 50-435 have been assigned to this application and should be referenced in any correspondence relating to it.

The proposed nuclear facilities, designated by the applicant as the Surry Power Station, Units 3 and 4, are to be located on the applicant's site on the James River in Surry County, Virginia. Each unit is designed for initial operation at approximately 2,631 megawatts (thermal), and a gross electrical output of 919 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before December 11, 1973. The request should be filed in connection with Docket Nos. 50-434A and 50-435A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Swen Library, College of William & Mary, Williamsburg, Virginia 23185.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report. This report, which discusses environmental considerations related to the proposed construction of the Surry Power Station, Units 3 and 4, is available for public inspection at the aforementioned locations, and is also being made available at the Virginia Division of State Planning and Community Affairs, 1010 James Madison Building, Richmond, Virginia 23219, and Crater Planning District Commission, P.O. Box 1808, Petersburg, Virginia 23803.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 1st day of October 1973.

For the Atomic Energy Commission.

ROBERT L. FERGUSON,
Acting Chief, Pressurized Water Reactors Branch No. 4, Directorate of Licensing.

[FR Doc.73-21590 Filed 10-11-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25476[1]]

AIRLINE TARIFF PUBLISHERS, INC.

Notice of Prehearing Conference Regarding Agreement To Reorganize

Notice is hereby given that a prehearing conference in the above-mentioned matter is assigned to be held on December 12, 1973, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue, NW, Washington, DC, before Administrative Law Judge Richard M. Hartsock.

In order to facilitate the conduct of the conference parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before November 27, 1973, and the other parties on or before December 6, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., October 18, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-22827 Filed 10-25-73;8:45 am]

[1] See ordering paragraph 8, order 73-10-26.

[Docket No. 25761]

HAWAIIAN AIRLINES, INC. AND ALOHA AIRLINES, INC.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on December 4, 1973, at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Harry H. Schneider.

Dated at Washington, D.C., October 19, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-22829 Filed 10-25-73;8:45 am]

[Docket 25990]

MANDATORY FUEL ALLOCATION PROGRAM

Order Amending Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of October 1973. By telegram dated October 19, 1973, the Director, Energy Policy Office, Executive Office of the President, and the Chairman of the Civil Aeronautics Board notified the Chief Executive Officer of each U.S. scheduled and supplemental air carrier of a meeting to be held October 25, 1973, for the purpose of discussing the emergency allocation program for jet fuel.[1] The meeting in question is intended to develop policies which will form the basis for the allocation of jet fuel throughout

[1] On April 30, 1973, the Economic Stabilization Act of 1970 was amended by P.L. 93-28 to give the President (or his delegate) the power to allocate petroleum products, including crude oil. Pursuant thereto, the Energy Policy Office, by order issued October 12, 1973, adopted a mandatory fuel allocation program which, *inter alia*, imposes controls on "middle distillate fuels" including airline turbine fuel.

the industry in the months ahead. The telegram encouraged the carriers to bring to the meeting an industry-wide plan for air carrier operations under the fuel shortage conditions and advised the carriers that if no plan is presented at the meeting, the carriers will be expected to meet immediately thereafter to formulate such a plan.

By Order 73-10-50, dated October 12, 1973, the Board authorized the carriers to meet for the purpose of considering the adjustment of schedules to the extent necessary to accommodate the President's fuel allocation program with the least possible reduction of service to the public. It is our intention that the permission to enter into discussions granted by that order be broad enough to encompass the formulation of an industry-wide plan for carrier operations under the fuel allocation program as contemplated by the above-mentioned telegram. Accordingly, in order to clarify the Board's intentions, we are hereby amending Order 73-10-50.

Accordingly, It is Ordered, That:

1. Ordering paragraph "1" of Order 73-10-50 be and it hereby is amended to read as follows:

1. All certificated route and supplemental air carriers be and they hereby are authorized to conduct discussions to consider adjustment of schedules to the extent necessary to accommodate the fuel allocation program and to consider the formulation of an industry-wide plan for carrier operations under the fuel allocation program, subject to the following conditions:

(a) The discussions shall be held in Washington, D.C. and representatives of the Civil Aeronautics Board and of any other interested persons shall be permited to attend the discussions as observers;

(b) The markets to be discussed shall be limited to markets in interstate and overseas air transportation;

(c) Notices of any meeting held pursuant to this order shall be served on all certificated route and supplemental air carriers, and the Civil Aeronautics Board, at least 24-hours prior to said meeting;

(d) A full transcript shall be maintained at all meetings, at the expense of the carriers, and two copies of said transcript shall be filed with the Board;

(e) The authority granted herein shall expire within 90 days of the effective date of this order;" and

2. Copies of this order shall be served on the Departments of Defense, Justice and Transportation; the U.S. Postal Service; and all certificated and supplemental air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-22830 Filed 10-25-73;8:45 am]

[Docket Nos. 26004-26011; Order 73-10-65]

NORTH CENTRAL AIRLINES, INC. ET AL.

Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of October 1973.

By this order the Board proposes to render ineligible for subsidy competitive nonstop service provided by the above-named local service carriers in those relatively large city-pair markets where one of the points enplaned a minimum of approximately 80,000 revenue passengers in fiscal 1971 and the other enplaned 400,000 or more revenue passengers in fiscal 1971.[1] The Board further proposes to amend the certificate authority of the above-named carriers to make permissive the nonstop authority rendered subsidy ineligible hereby.[2]

As part of its continuing study of the subsidy requirements of local service carriers, the Board has examined the nonstop operations of such carriers in competitive city-pair markets which are eligible for subsidy. Under past, present, and prospective class rates, operations in these markets are used to compute the gross subsidy need requirements of the local service class, but are not used for purposes of allocating the subsidy payable to each local service carrier. By excluding these markets from the payment formula, the Board intended to create incentives for local service carriers to provide service in low-density markets which almost invariably involve small community monopoly service. Moreover, the Board believed that such exclusion was justified because the markets showed the most potential for traffic generation; that is, they were self-sufficient or promised self-sufficiency. The base period used for analysis was the year ended March 31, 1972.[3] Selected traffic statistics for both subsidized and competitive carriers in the various city-pairs studied are contained in Appendix A to this order.[4]

The subsidy-eligible markets listed in Appendix A[5] were originally certificated in the 1940's and 50's before awards of authority in competitive markets were made ineligible as a matter of policy. Our analysis reveals that they are similar to routes awarded on an ineligible basis during the middle and late 1960's as part of the "route strengthening" program then in effect.[6] Indeed, in some markets a subsidized local service carrier is competing with another local service carrier which serves the market on a subsidy-ineligible basis.[7] As a group, these eligible competitive markets compare favorably with the total of all local service ineligible operations. Average passenger loads are only slightly lower (about 35 versus 39) and, on the average, load factors are higher (over 50 percent compared with about 45 percent).

For the year ended March 31, 1972, the city-pairs listed in Appendix A generated an estimated net subsidy need of about $7.6 million. This represents about $9.6 million in need arising from 44 markets less $2.0 million in profits in 13 city-pairs. The distribution of indicated net subsidy need by city-pair hub category and by carrier is shown in the following table:[8]

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[1] These city-pair markets are classified in the A-A, A-B, A-C, B-B, and B-C hub categories in Proposed Class Rate VII, Order 73-10-1, October 1, 1973, Appendix G.

[2] For administrative convenience the Board is issuing a single show cause order covering eight separate proceedings for each local service carrier involved. Because this is not a consolidated proceeding, the Board may issue separate final orders applicable to each carrier, as the circumstances may warrant.

[3] This period was selected because more detailed data based on carrier submissions was available for this period than for any alternative period. (Due to strike effects, Airwest's operations were analyzed, in part, using data for the year ended June 30, 1971.) No data are available for Mohawk's operations, and examination of Allegheny's reports indicated deficiencies serious enough to make the information useless. Therefore, Allegheny-Mohawk operations were not covered in the analysis.

[4] Note that the city-pairs contained in Appendix A, filed as part of the original document, are those where it could clearly be established that competitive nonstop operations existed during the base period. The Board's staff will continue to investigate the systems of local service carriers in order to determine whether other city-pair markets properly fall into these categories of markets, and whether other categories should be made ineligible.

[5] Appendices A and B filed as part of the original document.

[6] For example, Dallas-Houston, Houston-San Antonio, Atlanta-Columbia, Dallas-Little Rock, and Birmingham-Memphis, which are all eligible for subsidy, are not materially different from Kansas City-St. Louis, Baltimore-New York, Indianapolis-St. Louis, Dallas-Denver, and other markets which were awarded on a subsidy-ineligible basis during the late 1960's.

[7] For example, Texas International is subsidized in the Little Rock-Memphis market while Frontier is not; Frontier is subsidized in the Phoenix-Tucson market while AirWest is not; and Southern is subsidized in the New Orleans-Baton Rouge market while Texas International is not.

[8] This data was derived from the "Distribution of Reported Services and Financial Data to Selected Categories" filed with the Board by the local service carriers for the year ended March 31, 1972. Because these data relate to a prior period, the level of subsidy need estimated may well have changed.

INDICATED NET SUBSIDY NEED (PROFIT) BY CARRIER, BY HUB CATEGORY—YEAR ENDED MARCH 31, 1972

(Amounts in thousands of dollars)

Carrier	City-pair hub category					
	A-A	A-B	A-C	B-B	B-C	Total
Air West [1]		641	934		404	1,979
Frontier		(56)	(557)	649	372	408
North Central	205	273	(43)		558	993
Ozark			323		153	476
Piedmont		129	225	39	959	1,352
Southern		162	659	39	(3)	857
Texas International	939	59	189		394	1,581
Total	1,144	1,208	1,730	727	2,837	7,646

[1] Air West's need is based on operations for the year ended June 30, 1971, due to strike effects.

The table does not include subsidy need estimates for competitive markets operated by Allegheny and Mohawk during the base period (see data deficiencies described in footnote 2, above). It would appear that, due to a Mohawk strike and the subsequent Allegheny-Mohawk merger, reliable or useful base period data for Mohawk's system may not be available. However, the deficiencies in Allegheny's premerger system data could have been remedied by the carrier. For this reason, we have decided to include Allegheny in this order, and in so doing we will direct the carrier to remedy the deficiencies in its premerger base period data for the year ended March 31, 1972, and supply Mohawk market data for the most recent 12 months prior to the Mohawk strike, by the time objections to this show cause order are required to be filed. Despite the lack of specific information, Allegheny markets falling into the categories of markets covered by this order are readily identifiable.[8] It is also apparent that the tentative findings and conclusions which follow apply with equal force to Allegheny and each of the Allegheny markets set forth in Appendix B.[8a]

PROPOSED FINDINGS AND CONCLUSIONS

In support of our ultimate findings with respect to each of the eight local service carriers, the Board tentatively finds and concludes that, given the present state of development of the air transportation industry, there is no valid reason to continue to allow nonstop competitive operations in the markets listed in Appendix B, and in markets with similar characteristics, to be used in computing the subsidy need requirements of the local service carriers as a class. Had nonstop service in these markets been considered more recently, it would not have been certificated except on a subsidy-ineligible basis,[9] and, for the reasons set forth below, we find that continued certification of these markets would not be warranted unless the authorizations are made subsidy ineligible.

Each of these markets, in which a subsidized local service carrier is competing with one or more nonsubsidized carriers, is large enough to support service without subsidy. To continue to subsidize nonstop competition in such large and medium hub markets is unjustified and inequitable. As the Board stated in the *Anchorage-Fairbanks Case*, "conditions against subsidy eligibility in these circumstances will serve to avoid competitive expenditures and practices which otherwise might be undertaken in reliance on the prospect of subsidy." [11] No public purpose is served by subsidizing competitive service when, as set forth below, adequate air transportation would be otherwise available. The inequity is particularly striking in those markets in which two local service carriers are operating competitive nonstop service, one of which is eligible for subsidy and the other subsidy-ineligible. By adding to the overall subsidy level, the subsidy-eligible markets make more subsidy available than would otherwise be the case, with the consequent effect of distorting competitive relationships. The re-classification of these markets as subsidy-ineligible will eliminate the inequity and make these operations consistent with the recent pattern of competitive route awards.[12]

Any potential harm to any of the eight affected carriers will be mitigated by amending their individual certificates to make the newly ineligible nonstop authority permissive where nonstop operations are now mandatory.[13] Under these circumstances, the carriers will continue to operate where they hold solid positions in the various markets.[14] On the other hand, they will be free to reduce frequencies or discontinue nonstop operations where that is necessary to avoid incurring a loss. Permissive authorizations in these circumstances are also generally consistent with Board policy.[15]

Each of the markets listed in Appendix B is served by at least one unsubsidized carrier (for the most part including one trunk) in addition to the local service carrier in question. Almost 40 percent of the markets listed in Appendix A receive service from two or more nonsubsidized carriers in addition to the local service carrier involved. Several of the markets are served by as many as five carriers and one is served by seven. It is, therefore, clear that the communities will be amply protected by the existence of adequate alternate service.

The actions proposed to be taken in each of these dockets will reduce subsidy payments by shrinking the base upon which the total or gross subsidy for the local service carriers is calculated under the class rate.[16] The Board "has a primary duty to the taxpayers to pay out no more in subsidy than is currently needed to accomplish the purposes of section 406." [17] That section states that "the Board shall take into consideration, among other factors, * * * the need of each such air carrier * * * for compensation for the transportation of mail sufficient to insure the performance of such service, and, * * * to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense." [18] The actions proposed herein are fully consistent with this provision.[19] While "the overall need of the carrier is the limit of subsidy," the Board is not required "to grant subsidy to the extent of overall need" where it has been found that cer-

[8] Appendix B, filed as part of the original document, lists 40 Allegheny markets of the type covered by this order. The markets in issue for the other local service carriers are also listed by carrier in Appendix B.

[8a] Appendix B filed as part of original document.

[9] The markets listed in Appendix B fall into one or both of the following categories: (a) Markets which were awarded early in the Board's history and which have grown substantially, or (b) markets which were awarded in proceedings which did not consider subsidy-ineligibility as a possible condition where competitive service was being authorized.

[11] Order E-26934, June 18, 1968, p. 2. The Board went on to state that "The fact that the Board might be able to disallow some of those expenditures in fixing rates for a past or future period neither provides a practical substitute for a threshold determination that subsidy will not be granted nor renders the section 401(g) amendment invalid."

[12] See, *e.g.*, North Central Madison-Chicago Service, 44 C.A.B. 315, 324, (1966) Lake Central Airlines "Use It Or Lose It" Case, 45 C.A.B. 637 (1966); West Coast Airlines "Use It Or Lose It" Case, 46 C.A.B. 243 (1967). *Cf.* Eastern-Mohawk Transfer Case, 34 C.A.B. 274 (1961).

[13] In a large percentage of the instances, the carriers already hold permissive nonstop authority. Where that is not the case, appropriately amended certificates will be issued with the orders finalizing this order. Each affected carrier is invited to submit proposals as to the precise form that such permissive authorizations should take.

[14] On balance, the locals more than hold their own in competition in these eligible markets, including markets with multiple competition. Frequently, they are the dominant carriers. In the two-carrier markets, the locals are the primary operators in about half the cases.

[15] North Central Madison-Chicago Nonstop Service, 44 C.A.B. 315 (1966); Mohawk Route 94 Realignment, 46 C.A.B. 111 (1967); North Central Airlines Renewal Cases, 46 C.A.B. 197 (1967).

[16] Because these operations are primarily conducted with jet aircraft, the investment level is relatively high.

[17] Trans World Airlines v. C.A.B., 385 F.2d 648, 667 (D.C. Cir., 1967); See also, Denver-Grand Junction-Las Vegas Service Investigation, Order E-26354, October 17, 1967, p. 13.

[18] Federal Aviation Act of 1958, as amended, section 406(B).

[19] Note that one-stop and multi-stop service between these points will continue to be eligible for subsidy. Only where the carrier chooses to operate nonstop service under its permissive authority will the operation be rendered ineligible for subsidy.

tain of the carrier's operations "should not entail any right to subsidy." [20]

The amount of subsidy reduction which will result from the action proposed in each of these dockets will depend on the conditions prevailing at the time that this order is finalized and carrier performance thereafter. The data for the base period (year ended March 31, 1972) suggest that net subsidy-need reduction, considering these eight separate dockets as a unit, will be in the area of several million dollars. These data further indicated that the implementation of this proposal will shift about 14 percent of the eligible departures of the overall group, less Allegheny, to an ineligible status.

The inequity of indirectly subsidizing one of two or more nonstop competitors in a market is applicable with equal force to each such market. Further, to permit the carriers to pick and choose the markets which will be rendered ineligible for subsidy could substantially reduce the beneficial subsidy reduction which would otherwise result from our action proposed herein.[21] This would be antithetical to the purposes of the present show cause proceeding. Accordingly, the Board intends to issue one or more final orders covering the markets concerned for each carrier, as set forth in Appendix B.

In light of the foregoing, we tentatively find and conclude that the public convenience and necessity require the amendment of the certificates of the subject carriers so as to render ineligible for subsidy competitive nonstop service in the city-pair markets set forth in Appendix B which are classified in the A-A, A-B, A-C, B-B, and B-C hub categories, and to make the newly ineligible nonstop authority permissive.[22]

[20] Eastern-Mohawk Transfer Case, 34 C.A.B. 274, 278 (1961). See also section 406(b) which provides that "In fixing and determining reasonable rates of compensation under this section, the Board * * * may fix different rates for * * * different classes of service."

[21] Under Class Rates VI and VII, earnings of the ineligible services in excess of 12.35 percent return on investment are used to offset the otherwise subsidy need of the eligible services. Class Rate VII also provides that prospective excess earnings of the carriers' eligible services, upon periodic review, will be shared between the government and the carrier with the carrier retaining 50 percent of the excess and not subject to offset. The markets to be re-classified herein would be included in the overall analysis of the ineligible services in determining offset. At the present time, only three carriers are reporting earnings in excess of 12.35 percent. Thus, if allowed to select the markets as to which this order is finalized, the local service carriers could select only those markets which would have the least impact on their *net* subsidy payments.

[22] We further find that the eight local service carriers affected by this order are citizens of the United States within the meaning of the Act and are fit, willing and able properly to perform the transportation proposed herein and to conform to the provisions of the Act and the Board's rules, regulations and requirements thereunder.

Interested persons will be given forty days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final as to each of these separate proceedings.[23] Objections, if any, will be directed to specific markets within each docket and such objections will be supported with detailed explanations which will specifically address each tentative finding and conclusion to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested in any of these separate proceedings, the objector should state, in detail, why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 401, 406, 1002, and 1005 thereof.

It Is Ordered, That:

1. Each of the following carriers: North Central Airlines, Inc. (in Docket 26004); Texas International Airlines, Inc. (in Docket 26005); Frontier Airlines, Inc. (in Docket 26006); Hughes Air Corp. d/b/a AirWest (in Docket 26007); Ozark Air Lines, Inc. (in Docket 26008); Piedmont Aviation, Inc. (in Docket 26009); Southern Airways, Inc. (in Docket 26010); Allegheny Airlines, Inc. (in Docket 26011); and all other interested persons are directed to show cause why the Board should not issue an order or orders making final the tentative findings and conclusions stated herein with regard to each of these individually docketed proceedings; amending the individual certificates of public convenience and necessity of the various carriers involved so as to render ineligible for subsidy all competitive nonstop service performed by each of the local service carriers listed above in the city-pair markets set forth in Appendix B and, where necessary, making the new subsidy-ineligible nonstop authority permissive;

2. Any of the above-named carriers and any other interested persons having objections to the issuance of an order or orders making final any of the proposed findings, conclusions, or certificate amendments as set forth herein shall, within forty days after service of a copy of this order, file with the Board and serve upon all parties listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; [24]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed in any of these dockets, all further procedural steps shall be deemed to have been waived and the Board may proceed to enter an order or orders in accordance with the tentative findings and conclusions set forth herein;

5. A copy of this order shall be served upon North Central Airlines, Inc.; Texas International Airlines, Inc.; Frontier Airlines, Inc.; Hughes Air Corp. d/b/a AirWest; Ozark Air Lines, Inc.; Piedmont Aviation, Inc.; Southern Airways, Inc.; Allegheny Airlines, Inc.; American Airlines, Inc.; Braniff Airways, Inc.; Continental Air Lines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; National Airlines, Inc.; Northwest Airlines, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; Western Air Lines, Inc.; the Mayors of the cities listed in Appendix B; the Governors of the States in which the cities listed in Appendix B are located; and the Airport Managers of the airports serving the cities listed in Appendix B;

6. The release and disclosure of the service segment data of all carriers for the city-pair markets listed in Appendix B for use in these proceedings, be and it hereby is authorized; and

7. Allegheny Airlines, be and it hereby is ordered to remedy the defects in its "Distribution of Reported Services and Financial Data to Selected Categories" reports to the satisfaction of the Board's staff for Allegheny's pre-merger system for the year ended March 31, 1972 and to provide Mohawk market data for the most recent 12 months prior to the Mohawk strike within forty days after the service date of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-22826 Filed 10-25-73;8:45 am]

[23] In accordance with Part 241, section 19-6 (b)(1) of the Economic Regulations, the Board has decided, on its own motion, to authorize the release and disclosure of the service segment data of all carriers for the city-pair market listed in Appendix B for use in these proceedings. We find that these data will be material and relevant to these proceedings.

[24] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[Docket No. 20472]

PHILADELPHIA-ROCHESTER/SYRACUSE CASE

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 29, 1973, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

before Administrative Law Judge Joseph L. Fitzmaurice.

In order to facilitate the conduct of the conference parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before November 8, 1973, and the other parties on or before November 19, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., October 19, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-22828 Filed 10-25-73;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Legislation (Education), Office of the Assistant Secretary for Legislation, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-22797 Filed 10-25-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Commissioner, Youth Development and Delinquency Prevention Administration, Office of the Administrator, Social and Rehabilitation Service.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-22798 Filed 10-25-73;8:45 am]

VETERANS ADMINISTRATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Veterans Administration to fill by noncareer executive assignment in the excepted service the position of Special Assistant, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-22799 Filed 10-25-73;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1973

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodities to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

CLASS 7230

Curtain, Shower
7230-849-9839
7230-247-1280
7230-849-9838
7230-205-1762

CLASS 7510

Binder, Looseleaf (Vinyl)
7510-984-5787
7510-782-2663
7510-782-2664

CLASS 8415

Apron, Laboratory
8415-634-5023
Apron, Laboratory, Plastic
8415-715-0450

Comments and views regarding these proposed additions may be filed with the Committee not later than 30 days after the date of this Federal Register. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-22802 Filed 10-25-73;8:45 am]

PROCUREMENT LIST 1973

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodities to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

CLASS 8465

Protector, Pistol Holder
8465-682-6741
Pocket, Ammo, Magazine, White
8465-261-4983
Pocket, Ammo, Magazine, OD
8465-782-2239

Comments and views regarding these proposed additions may be filed with the Committee not later than 30 days after the date of this Federal Register. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-22803 Filed 10-25-73;8:45 am]

PROCUREMENT LIST 1973

Notice of Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed addition of the following commodity to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

CLASS 8020

Cover, Paint Roller
8020-682-6489
8020-682-6490
8020-682-6491
8020-682-6492

Comments and views regarding these proposed additions may be filed with the Committee not later than 30 days after the date of this Federal Register. Communication should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-22804 Filed 10-25-73;8:45 am]

PROCUREMENT LIST 1973

Addition to Procurement List 1973

Notice of proposed addition to the Initial Procurement List August 26, 1971 (36 FR 16982), was published in the FEDERAL REGISTER on March 28, 1972 (37 FR 6348).

Pursuant to the above notice the following commodity is added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

CLASS 6505	*PRICE*
Ammonia Inhalant Solution, Aromatic (JO) 6505-106-0875	$0.50 pG.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-22805 Filed 10-25-73;8:45 am]

PROCUREMENT LIST 1973

Deletion From Procurement List 1973

Notice of proposed deletion from Procurement List 1973, March 21, 1973 (38 FR 6742), was published in the FEDERAL REGISTER on May 31, 1973 (38 FR 14303).

Pursuant to the above notice the following commodity is deleted from Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

CLASS 7510

Binder, Looseleaf
7510-582-4200
7510-582-4199

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-22806 Filed 10-25-73;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) (iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet at 10 a.m., Thursday, November 1, 1973, at 2025 M Street NW., Washington, D.C.

The agenda will consist of discussions leading to recommendations on specific Phase II and Phase III wage cases in the food area, and future wage policy.

Since the above stated meeting will consist of discussions of future food wage policy and Phase II and III cases for decision, pursuant to authority granted me be Cost of Living Council Order 25, I have determined that the meeting would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., on October 24, 1973.

HENRY H. PERRITT, Jr.,
Executive Secretary
Cost of Living Council.

[FR Doc.73-22937 Filed 10-24-73;3:25 pm]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality from October 15 through October 19, 1973.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Salmon River and Idaho Wilderness Areas, several counties in Idaho, October 15: The statement refers to proposed legislation which would establish a Salmon River Wilderness and an Idaho Wilderness as National Forest units of the National Wilderness Preservation System. Lands recommended for wilderness designation include 1,347,012 acres of the existing Idaho and Salmon River Breaks Primitive Area, and 184,864 contiguous acres of undeveloped Federal lands in the Bitterroot, Nezperce, Boise, Challis, Payette, and Salmon National Forests. Impact will be upon the use of renewable resource goods, the development of mineral deposits, and the use of recreational opportunities (66 pages). (ELR Order No. 31628) (NTIS Order No. EIS 73 1628-D.)

Herbicide Use, Siskiyou, Siuslaw and Umpqua N.F., Oregon and California, October 15: The statement refers to the proposed use of the herbicides 2,4-D, 2,4,5-T, 2,4,5-TP, Amitrole-T, Atrazine, Picloram, and Dicamba to reduce native vegetation where it hampers forest management activities. Benton, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, Polk, Tillamook, and Yamhill Counties in Oregon, and Del Norte and Siskiyou Counties in California will be affected. Nontarget plant species, wildlife, and domestic livestock may be affected. (ELR Order No. 31637) (NTIS Order No. EIS 73 1637-D.)

Final

Roadless and undeveloped areas, October 15: The proposed action is the selection of 274 New Study Areas from 1,449 areas of undeveloped National Forest lands, and the evaluation of their possible addition to the National Wilderness Preservation System. All but 3 of the New Study Areas are located in the 11 westernmost states of the contiguous United States, plus Alaska. One area each is included in Florida, North Carolina, and Puerto Rico. A total of 12.3 million acres is involved (689 pages). Comments made by: AHP, ARC, AEC, USDA, USA, DOC, DOD, HEW, HUD, DOI, EPA, State and local agencies, and concerned citizens. (ELR Order No. 31636) (NTIS Order No. EIS 73 1636-F.)

Centennial Mountains, Targhee National Forest, Clark and Fremont Counties, Idaho, October 15: Proposed is land use management for the 193,000 acre Centennial Mountain Planning Unit, Dubois and Island Park Ranger Districts, Targhee National Forest. Proposed activity includes timber harvesting, livestock grazing, mining, road construction, and outdoor recreation. Adverse impact will include soil movement and changes in vegetative cover, effects upon wildlife, changes in scenic values, and increased fire risks 150 pages). Comments made by: USDA, AEC, EPA, HUD, DOI, State and local agencies, and concerned citizens. (ELR order No. 31639) (NTIS Order No. EIS 73 1639-F.)

South Boise-Wood River, Sawtooth N.F., Blaine, Camas, and Elmore Counties, Idaho, October 16: The statement refers to a proposed land use plan for 593,000 acres of the South Boise-Wood River Planning Unit of the Sawtooth National Forest. The Unit will be managed for recreation, back county and wilderness values, timber cutting, wildlife habitat, livestock grazing, water resources, road and trail construction, and scenic and historic values. Of the 506,000 acres of roadless areas in the planning unit, 313,000 acres will be roaded and 193,000 will remain roadless (approximately 240 pages). Comments made by: USDA, DOI, EPA, State, local, and private agencies. (ELR Order No. 31646) (NTIS Order No. EIS 73 1646-F.)

Big Creek Planning Unit, Kootenai N.F., Lincoln County, Mont., October 15: Proposed is the implementation of a revised multiple use plan for the 91,000 acre Unit. The lands will be stratified into 9 management situations with similar resource will be adverse impact to air and soil qualities (114 pages). Comments made by: USDA, DOI, and State and private agencies. (ELR Order No. 31627) (NTIS Order No. EIS 73 1627-F.)

Aquarius Planning Unit, Dixie N.F., Wayne and Garfield Counties, Utah, October 17: The statement refers to a proposed land use plan for the 252,000 acre Aquarius Planning Unit of Dixie National Forest. Proposed activities include timber harvesting, road construction, mining, range management improvement, control of off-road vehicle use, protection of wilderness, and watershed improvement. There will be adverse impact to soil stability, water and air quality, and aesthetics from timber harvest and road construction (127 pages). Comments made by: DOI, AHP, and State agencies and concerned citizens. (ELR Order No. 31653) (NTIS Order No. EIS 73 1653-F.)

SOIL CONSERVATION SERVICE

Final

Fall Creek Watershed Project, Warren County, Ind., October 17: The proposal is for a watershed protection, flood prevention, and recreation project. Project measures would include land treatment on 1,306 acres, one multiple purpose reservoir, riprap, and recreation facilities. Adverse impacts will include the commitment of 233 acres to reservoir and park development and 59 acres to the pool, dam and spillway; utilization of recreation facilities will require increased capacity for Williamsports's treatment plant (35 pages). Comments made by: USA, DOI, DOT, EPA, and one State agency. (ELR Order No. 31656) (NTIS Order No. EIS 73 1656-F.)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202-973-5391. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, 202-973-7373, Washington, D.C. 20545.

Draft

Indian Point Station, Unit 3, Westchester County, N.Y., October 18: Proposed is the issuance of an operating license to the Consolidated Edison Company for Unit 3 of the Station. The Unit will employ a pressurized water reactor to produce 3,025 MWt, and 965 MWe (net); future power levels of 3,216 MWt and 1,033 MWe are anticipated. Exhaust steam will be condensed by a once-through flow of water from the Hudson River. The statement considers the environmental impact from simultaneous operation of all three units of the Station (approximately 400 pages). (ELR Order No. 31655) (NTIS Order No. EIS 73 1655-D.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314 (202) 693-7168.

Final

West Terre Haute Levee, Indiana, October 18: The proposed project involves the construction of 10,000 feet of levee, 845 feet of concrete wall, 2,000 feet of railroad fill slope blanket, and 1,900 feet of raised street, in order to provide local flood protection for the City of West Terre Haute. Sixty acres of land will be committed to the project (Louisville District) (27 pages). Comments made by: DOI, USDA, and EPA. (ELR Order No. 31666) (NTIS Order No. EIS 73 1666 F.)

Providence River and Harbor, Rhode Island, October 17: Proposed is navigation improvement to remove shoals in the Providence River. The dump site is an ocean disposal site 4.6 miles from Brenton Reef Light. Adverse impacts resulting from the project are disruption of benthic communities and increased water pollution (144 pages). Comments made by: DOC, DOI, EPA, FPC, HEW, and USCG, State and local agencies (ELR Order No. 31663) (NTIS Order No. EIS 73 1663 F.)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350 (202) 697-0892.

Draft

Bomb Loading Plant Modernization, McAlester, Pittsburg County, Okla., October 15: Proposed is the modernization and reactivation of an inactive bomb loading plant (Bomb Loading Plant "A") at the Naval Ammunition Depot at McAlester, Oklahoma. The new loading plant is designed to provide a greater bomb loading capacity using fewer production personnel. The principal adverse environmental effect associated with the project is the risk of an accidental explosion with resultant injury and damage to personnel, equipment, and the surrounding area (102 pages). (ELR Order No. 31641) (NTIS Order No. EIS 73 1641 D)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630 Waterside Mall, Washington D.C. 20460 (202) 755-0940.

Draft

Mamala Bay Wastewater Treatment Plant Hawaii: October 15: The proposed action involves the construction of a regional wastewater treatment and disposal system to serve the Mamala Bay area (Honolulu and western suburbs) of Oahu, Hawaii. The area will be served by two unconnected collection, treatment and disposal areas. Adverse effects include noise, dust, inconvenience to residents, removal of acreage from agricultural production, and turbidity and disturbance to benthic organisms. The discharge of 55 mgd of raw wastes off Sand Island and 14 mgd of inadequately treated wastes into Pearl Harbor will be eliminated (240 pages). (ELR Order No. 31631) (NTIS Order No. EIS 73 1631 D)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202-386-6084.

Draft

Crooked Creek Project No. 2628 (2), Clay and Randolph Counties, Ala., October 18: The statement, a revised draft, refers to the granting of a major license to the Alabama Power Company for construction of the Crooked Creek Project on the Tallapoosa River. Project measures will include a 150' high, 956' long concrete dam, earth and rock-filled dikes, a powerhouse, and a 10,600 acre lake. Adverse impact will include the inundation of 10,600 acres of farmland, timber land, and wildlife habitat, the elimination of the free flowing river, and change in water quality (approximately 200 pages). (ELR Order No. 31668) (NTIS Order No. EIS 73 1668-D.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Acting Director, Office of Community and Environmental Standards, Room 7206, 451 7th Street SW., Washington, D.C. 20410, 202-755-5980.

Final

Kingston Urban Renewal Project, Luzerne County, Pa., October 15: The statement refers to an urban renewal project for the Borough of Kingston, in order to compenstate for damages which resulted from Tropical Storm Agnes in 1972. Under the project flood damaged structures will be removed, and new housing constructed. Twenty percent of new residential construction is expected to be for low income families. Commercial areas will be reconstructed. There will be disruption from construction activities (106 pages). Comments made by: COE, DOI, EPA, HEW, USA, and State and local agencies. (ELR Order No. 31632) (NTIS Order No. EIS 73 1632-F.)

Penn Susquehanna Urban Renewal Project, Pennsylvania, October 15: Proposed is a conventional urban renewal program in the City of Harrisburg, in an effort to offset damage caused by Tropical Storm Agnes in 1972 (143 pages). Comments made by: COE, DOI, EPA, HEW, and State and local agencies. (ELR Order No. 31633) (NTIS Order No. EIS 73 1633-F.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Final

Oil and Gas Lease Sale, Fall 1973, Mississippi, Alabama, and Florida, October 17: The statement refers to the proposed sale of one hundred and fifty-nine tracts (886,458 acres) of Outer Continental Shelf Lands off Mississippi, Alabama, and Florida, for oil and gas exploration and development. The sale is scheduled for fall, 1973. All tracts offered pose some degree of pollution risk. Each tract offered is subject to a matrix analytical technique in order to evaluate significant environmental impacts (1,425 pages). Comments made by: AEC, DOC, DOD, DOI, EPA, FPC, USCG, and concerned States. (ELR Order No. 31651) (NTIS Order No. EIS 73 1651-F.)

BUREAU OF SPORT FISHERIES AND WILDLIFE

Final

Topock Marsh Unit, Havasu National Wildlife Refuge, Mohave County, Ariz., October 15: The proposal is for a habitat enhancement project. Included would be diking for water management; channeling to improve regulation; and levee and sediment basin construction. There may be some reduction of microorganisms (106 pages). Comments made by: USDA, EPA, DOI, and State agencies. (ELR Order No. 31643) (NTIS Order No. EIS 73 1643-F.)

NATIONAL PARK SERVICE

Draft

Proposed Wilderness, Rocky Mountain National Park, Colo., October 15: The statement refers to the proposed legislative designation of five areas, totaling 238,000 acres, as Wilderness in accordance with the Wilderness Act of 1964. An additional 6,409 acres are recommended for wilderness status when they qualify. Effects of the action will include restrictions on backcountry roads, certain research projects, and management options (73 pages). (ELR Order No. 31644) (NTIS Order No. EIS 73 1644-D.)

Proposed Master Plan, Rocky Mountain National Park, Colo., October 15: The statement refers to a proposed master plan for the management and use of the Rocky Mountain National Park. The plan is intended to increase public enjoyment of park experiences with reduced impact or park resources. Large sections of the park are proposed for Wilderness. Effects of the plan will include the reduction or elimination of concession operations, high cost pollution abatement, and restriction of visitor use (103 pages). (ELR Order No. 31645) (NTIS Order No. EIS 73 1645-D.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Gadsen Municipal Airport, Etowah County, Ala., October 17: The proposed project involves the lengthening of existing Runway 24 (1985' x 150'); installing high intensity runway lighting; extending and lighting the parallel taxiway; widening the existing taxiway to 60'; strengthening the existing aprons, installing VASI and REIL; installing perimeter fencing; and constructing a fire/crash equipment building. Adverse effects stemming from the project include the acquisition of 398 acres of land, the displacement of five families, and increased noise pollution resulting from larger aircraft using the facility (54 pages). (ELR Order No. 31659) (NTIS Order No. EIS 73 1659-D.)

Teller Airport, Alaska, October 16: The project entails constructing a new airport to replace two unacceptable landing strips already in existence. A parking apron, connecting taxiway, and access road will also be constructed. Total area of the airport lease is 403 acres (403 pages). (ELR Order No. 31647) (NTIS Order No. EIS 73 1647-D.)

Chignik Airport, Alaska, October 16: The proposed project includes widening and extending a runway, parking apron, connecting taxiway, access road, and equipment building. The facility will acquire 3 acres of older trees (13 pages). (ELR Order No. 31648) (NTIS Order No. EIS 73 1648-D.)

Kitsap County Airport, Kitsap County, Wash., October 17: The statement refers to the proposed Airport Layout Plan which provides for the development of the existing airport over a 20-year planning period. Short range (5 years), intermediate range (10 years), and long-range (20 years) improvements to the airport are discussed. The objective of the plan is the establishment of all-weather instrument aircraft operations for current air traffic and anticipated jet cargo transport (50 pages). (ELR Order No. 31658) (NTIS Order No. EIS 73 1658-D.)

Final

Rutherford County Airport, Rutherford County, N.C., October 16: Proposed is the construction of a new general aviation airport to serve Rutherford County. Development consists of land acquisition (approximately 162 acres with relocation of three houses and two mobile homes); clearing or trimming approximately 86 acres of trees; constructing and lighting a 3900' x 75' runway with connecting taxiway and apron; and constructing an access road. The facility will be capable of accommodating substan-

tially all propeller aircraft of less than 12,500 pounds. Air and noise pollution levels will increase (56 pages). Comments made by: USDA, DOI, EPA, and HUD, State and local agencies. (ELR Order No. 31649) (NTIS Order No. EIS 73 1649–F.)

Greater Pittsburgh International Airport, Allegheny County, Pa., October 16: The proposed project contemplates constructing new runway 10R–28L and extending runway end 32 together with associated taxiways, new air carrier terminal building and access roads. Other improvements outside the airfield operation area include industrial waste treatment, sanitary sewerage system, elimination of mine acid drainage and waste area leachate, and restoration of strip mine and solid waste areas. Approximately 6,000 acres, as recommended in the master planning studies, will be acquired to expand the existing airport (134 pages). Comments made by: USDA, COE, DOI, DOT, EPA, FPC, and HUD, State and local agencies. (ELR Order No. 31650) (NTIS Order No. EIS 73 1650–F.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Alabama State Route 110 and I–85, Montgomery County, Ala., October 17: The proposed project is the construction of a new two-lane highway to provide access to the Auburn University extension from Alabama State Route 110 and Interstate 85. Project length is 2.2 miles. Approximately 60 acres of rural land will be acquired for right-of-way. There will be an increase in air pollution by vehicle emission and noise (16 pages). (ELR Order No. 31657) (NTIS Order No. EIS 73 1657–D.)

Highway K–96, Sedgwick County, Kans., October 15: The proposed project is the relocation of a 10-mile segment of K–96 through the northeast quadrant of the Wichita Metropolitan Area. Approximately 650 acres of agricultural land will be acquired for right-of-way; 3 to 21 families may be displaced, depending upon the route selected (109 pages). (ELR Order No. 31642) (NTIS Order No. EIS 73 1642–D.)

U.S. 41A, Hopkins County, Ky., October 15: Proposed is the reconstruction of 1.63 miles of U.S. 41A to a four-lane divided facility. The project will extend from Country Club Lane in Madisonville to Main Street in Earlington. Adverse effects are the acquisition of right-of-way and the displacement of 6 families (52 pages). (ELR Order No. 31638) (NTIS Order No. EIS 73 1638–D.)

National Freeway, Allegany County, Md., October 15: The project involves the improvement of 30 miles of the National Freeway located in the Appalachian region of Maryland. Depending upon the alternate chosen, 501.4 to 1,047.3 acres of land will be acquired for right-of-way, with 26 to 104 families, 1 to 15 businesses, 1 to 3 non-profit organizations, and 1 to 4 farm operations being displaced. A 4(f) review has been filed to obtain 99.4 to 182.4 acres of public land. Adverse effects stemming from the project are: loss of agricultural and forest land; loss of and disruption of fish and wildlife habitat; increased air, noise and water pollution levels; and relocation of 10 major streams (248 pages). (ELR Order No. 31640) (NTIS Order No. EIS 73 1640–D.)

U.S. Route 521, Lancaster County, S.C., October 15: The project involves the widening of U.S. Route 521 for 3 miles. The amount of land to be acquired is unspecified. Ten families and one business will be displaced. An increase in noise pollution will occur (12 pages). (ELR Order No. 31635) (NTIS Order No. EIS 73 1635 D.)

U.S.H. 51, Marquette, Waushara, and Portage Counties, Wis., October 15: The proposed project is the expansion of U.S. Highway 51 from a 2-lane to a 4-lane highway for a length of 56 miles. A total of 770 acres of land (307 acres of woodland, 445 acres of agricultural land, and 18 acres of marsh land), will be acquired for right-of-way. The improvement will require the acquisition of 14 residences, 4 businesses, portions of two businesses and 6 storage buildings. A 4(f) review has been filed to obtain 10 acres of the Chaffee Creek Public Lands for right-of-way. The facility will increase noise levels and cause a loss of fish, wildlife and waterfowl habitat (68 pages). (ELR Order No. 31624) (NTIS Order No. EIS 73 1624 D.)

S.T.H. 59, Waukesha County, Wis., October 15: The project is the improvement of S.T.H. 59 for 9.5 miles. Depending upon the alternate chosen the project will require from 16to 58 acres of land and displace 2 residences and 2 businesses. A section 4(f) has been filed to obtain land from the Scuppernag Wildlife Area and Kittle Moraine State Forest. An increase in noise levels will occur (224 pages). (ELR Order No. 31626) (NTIS Order No. EIS 73 1626 F.)

U.S.H. 51, Lincoln and Oneida Counties, Wis., October 18: The proposed project involves the improvement of U.S. Highway 51 for 32 miles. The facility will be a 4-lane freeway. A total of 2,550 acres of land will be acquired for right-of-way. An unspecified number of families and businesses will be displaced. The facility will traverse 9 creeks, increasing erosion and water pollution. Loss of fish habitat (mainly trout) will occur. Other major adverse effects are: loss of timberland and associated wildlife habitat, and increased noise and air pollution levels (61 pages). (ELR Order No. 31667) (NTIS Order No. EIS 73 1667 D.)

Final

Gastineau Channel Crossing, Juneau, Alaska, October 18: Proposed is the construction of a new bridge structure on FAP 95 across Gastineau Channel and the reconstruction of about 1.25 miles of a contiguous section of the Douglas Highway. Total project length is approximately 2 miles. Adverse effects of the action are the displacement of about 30 families from a trailer park, conflict with the proposed Borough Sewer line crossing, and the removal of bottom feeding area for diving ducks (185 pages). Comments made by: USDA, DOI, DOC, EPA, COE, DOT, HUD, and State and local agencies. (ELR Order No. 31671) (NTIS Order No. EIS 73 1671–F.)

Flagstaff-Lake Mary Road, Coconino County, Ariz., October 15: The proposed project consists of two sections, totalling 6.5 miles. A basic right-of-way of 400' is required. The scenic value of forest land and wildlife habitat will be adversely affected (132 pages). Comments made by: USDA, DOI, and State and local agencies. (ELR Order No. 31630) (NTIS Order No. EIS 73 1630–F.)

Delaware Rt. 397 (Ott's Chapel Road), New Castle County, Del., October 18: The proposed highway improvement is the construction of a bridge over the Penn Central Railroad and the upgrading of Ott's Chapel Road. The project will increase noise and air pollution (106 pages). Comments made by: USDA, DOI, DRBC, DOT, EPA, HEW, HUD, and State and local agencies. (ELR Order No. 31670) (NTIS Order No. EIS 73 1670–F.)

Blue Heron Bridge, Palm Beach County, Fla., October 15: The proposed project will provide a four-lane crossing of the Intracoastal Waterway, from the mainland to Phil Foster Park (on the island) and continuing to Singer Island. Project length is 1.015 miles. Dredge and fill operations will effect aquatic life systems. Section 4(f) land from the Phil Foster Park will be committed to the project (223 pages). Comments made by: USDA, HEW, USCG, and State agencies. (ELR Order No. 31634) (NTIS Order No. EIS 73 1634–F.)

Interstate Route 75, Lee and Broward Counties, Fla., October 17: The proposed project is the construction of a four-lane divided highway between State Route 82 south of Ft. Myers and U.S. 27 at Andytown, west of Fort Lauderdale. The 114-mile project will run east to west along the existing Alligator Alley corridor which passes through the Everglades. The most significant adverse environmental impacts of the action will result from the crossing of the Big Cypress Watershed and Conservation Area 3. Other effects include the displacement of 3 residences, the encroachment on Section 4(f) land, the loss of wetland, and the disruption of wetland wildlife and vegetation (280 pages). Comments made by: EPA, DOC, DOI, USDA, HEW, and State, regional, and local agencies. (ELR Order No. 31652) (NTIS Order No. EIS 73 1652–F.)

I–75, Lee, Charlotte, and Sarasota Counties, Fla., October 18: The proposed facility will ultimately be a four-lane, limited access, divided highway of interstate standard, 52.4 miles long. The segment covered in this statement is 41.4 miles long and lies North of the Lee-Charlotte County line. Major environmental impacts will be the Peace River crossing, the Cecil M. Webb Wildlife Management Area crossing, the displacement of 52 families, 41 mobile homes, 2 businesses, 2 barns, and the possible disruption of surface hydrology in the area. A section 4(f) statement has been filed for Wildlife Management Area encroachment (270 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HEW, HUD, and USCG. (ELR Order No. 31664) (NTIS Order No. EIS 73 1664–F.)

Glen Avenue, FAU Route 8398, Peoria, Ill., October 15: The statement refers to the proposed reconstruction of a two-mile segment of Glen Avenue (FAU Route 8398), from U.S. Route 150 easterly to Knoxville Avenue, FAP Route 40. The improvements, along the present alignment, will consist of two 24-foot concrete lanes with an 18-foot grass median. There will be an increase in the noise level in the project area (107 pages). Comments made by: AEC, AHP, DOT, and EPA, State agencies. (ELR Order No. 31625) (NTIS Order No. EIS 73 1625–F.)

Nebraska SR 66, Saunders County, Nebr., October 17: The proposed project is the improvement of 10 miles of SR 66. An unspecified number of acres will be displaced. If Alternate No. 2 is implemented the project will cross Oak Creek causing alterations of the channels and a disruption of the surrounding ecology. Other adverse effects will include increased erosion, loss of wildlife and increased water pollution (48 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HUD, and State agencies. (ELR Order No. 31662) (NTIS Order No. EIS 73 1662–F.)

Southern Tier Expressway (Rte. 415), Steuben County, N.Y., October 17: The proposed project is the construction of a portion of the Southern Tier Expressway. Depending upon the alternate chosen, the facility will vary from 8 to 14 miles in length and displace 35 to 80 families and 0 to 30 businesses. The facility will traverse the Chemung River, requiring riverbank relocations and crossing, thus causing erosion and siltation. Adverse effects will include loss and disruption of fish and wildlife habitat, and increased air and noise pollution. Flood control programs will be affected (224 pages). Comments made by: USDA, DOC, HEW, HUD, DOI, DOT, EPA, COE, and State and regional agencies. (ELR Order No. 31655) (NTIS Order No. EIS 73 1655–F.)

Foster/Woodstock Couplet, Portland, Multnomah County, Oreg., October 17: The project involves a proposal to convert a short section of S.E. Foster Road and S.E. Wood-

stock Boulevard to one-way streets, construct two connections between those streets, widen a portion of S.E. Foster Road, and widen a portion of S.E. 92nd Street. Seven families and 3 businesses will be displaced to acquire necessary right-of-way (36 pages). Comments made by: EPA, DOI, and State, local, and regional agencies. (ELR Order No. 31660) (NTIS Order No. EIS 73 1660-F.)

Ellington Parkway (FA Route 6), Davidson County, Tenn., October 18: Proposed is the construction of a 1.9 mile long extension to the end of the existing Ellington Parkway in Nashville. The facility will be an urban four-lane, full access, divided highway. Adverse effects are the displacement of fifteen residences, loss of aesthetic quality due to right-of-way acquisition, and increases in air and noise pollution. Comments made by: COE, HEW, DOI, EPA, TVA, and State, local, and regional agencies. (ELR Order No. 31669) (NTIS Order No. EIS 73 1669-F.)

Relocation of WVA 2, Cabell County, W. Va., October 15: The statement refers to the proposed construction of approximately 4 miles of West Virginia Route 2 beginning north of an intersection with Cabell County Route 3 and extending beyond the Cabell-Mason County Line. A 700' bridge over the Baltimore and Ohio Railroad and a 200' bridge over Guyan Creek will be constructed. Adverse effects include displacement of ten residences, disturbance of the Guyan Creek bottom, and temporary increases in noise and air pollution (76 pages). Comments made by: USDA, COE, DOC, DOI, DOT, EPA, FPC, GSA, HEW, and State and local agencies. (ELR Order No. 31629) (NTIS Order No. EIS 73 1629-F.)

Waldo Boulevard, STH 42 and US 10, Manitowoc County, Wis., October 17: The proposed project is the reconstruction of 2.6 miles of Waldo Boulevard in the City of Manitowoc. The project will provide a four lane urban facility and left turn lanes where necessary; a new bridge will be constructed over the Chicago and North Western Transportation Company's tracks. Adverse effects include acquisition of land for right-of-way and removal of existing trees (66 pages). Comments made by: EPA, HUD, DOI, and State agencies. (ELR Order No. 31661) (NTIS Order No. EIS 73 1661-F.)

Draft

SR 33, Claiborne County, Tenn., October 17: The proposed project is the initial construction of a 2-lane highway with future construction of a 4-lane highway. Depending upon the alternate chosen, length will vary from 3.8 to 4.0 miles. Land acquisition will total 40 to 80 acres of wooded area and 50 to 100 acres of agricultural land. The facility will traverse two creeks. Loss of wildlife habitat and an increase in noise and air pollution levels will occur (26 pages). (ELR Order No. 31654) (NTIS Order No. EIS 73 1654-D.)

NEIL ORLOFF,
Counsel.

[FR Doc.73-22747 Filed 10-25-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

AMCHEM PRODUCTS, INC.

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 4F1431) has been filed by Amchem Products, Inc., Ambler PA 19002, proposing establishment of tolerances (40 CFR Part 180) for negligible residues of the herbicide *N-sec-butyl-4-tert*-butyl-2,6-dinitroaniline in or on the raw agricultural commodities cottonseed and soybeans at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using electron-capture detection.

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22848 Filed 10-25-73;8:45 am]

E. I. DU PONT DE NEMOURS & CO., INC.

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 4F1428) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, proposing establishment of tolerances (40 CFR Part 180) for combined residues of the herbicide terbacil (3 - *tert*-butyl-5-chloro-6-methyluracil) and its hydroxylated metabolites (calculated as terbacil) in or on the raw agricultural commodities alfalfa (hay and forage) and birdsfoot trefoil (hay and forage) at 5 parts per million and milk and the fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a procedure in which the residues are derivatized with bis(trimethylsilyl) trifluoroacetamide plus 1% trimethylchlorosilane and determined by microcoulometric gas chromatography.

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22849 Filed 10-25-73;8:45 am]

E. I. DU PONT DE NEMOURS & CO., INC.

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 4F1427) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, proposing establishment of a tolerance (40 CFR Part 180) for combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated at benomyl) in or on the raw agricultural commodity pineapples at 35 parts per million resulting from postharvest application.

The analytical method proposed in the petition for determining residues of the fungicide is that of H. L. Pease and R. F. Holt, "Journal of the Association of Official Analytical Chemists", vol. 54, pps. 1399-1402 (1971).

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22850 Filed 10-25-73;8:45 am]

INSECTICIDES IN FOOD HANDLING ESTABLISHMENTS

Definitions and Policy Statement; Correction

In FR Doc. 73-16536 appearing at page 21686 in the issue of Friday, August 10, 1973, five misspelled chemical names in the numbered list in the second column are corrected to read as follows:

6. Dimethyl 2,2-dichlorovinyl phosphate

7. Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate

8. O,O - diethyl O - (2 - isopropyl - 6 - methyl - 4 - pyrimidinyl) phosphorothioate

10. Ortho-isopropoxyphenyl methylcarbamate

12. N-octylbicycloheptene dicarboximide

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22846 Filed 10-25-73;8:45 am]

PPG INDUSTRIES, INC.

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 4F1429) has been filed by PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222, proposing establishment of a tolerance (40 CFR Part 180) for combined residues of the herbicide CIPC (isopropyl *m*-chlorocarbanilate) and its metabolites isopropyl 5-chloro-2-hydroxycarbanilate, isopropyl 3-chloro-4-hydroxycarbanilate, and 1-hydroxy-2-propyl 3'-chlorocarbanilate in or on the raw agricultural commodity soybeans at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the herbicide and its metabolite 1-hydroxy-2-propyl 3'-chlorocarbanilate is a procedure in which the residues are hydrolyzed, steam distilled, and 3-chloroaniline is extracted. The 3-chloroaniline is determined colorimetrically at 535 nanometers after diazotization with nitrous acid and coupling with *N*-ethyl-1-naphthylamine.

The analytical method for determining residues of the metabolites isopropyl 5-chloro-2-hydroxycarbanilate and isopropyl 3-chloro-4-hydroxycarbanilate is a procedure in which the residues are hydrolyzed enzymatically, reacted with heptafluorobutyryl chloride, and then

determined by electron capture gas chromatography.

Dated October 19, 1973.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-22847 Filed 10-25-73;8:45 am]

WATER QUALITY CRITERIA

Notice of Publication

Notice is hereby given that proposed Water Quality Criteria have on this date been published by the Environmental Protection Agency as Volume I of a two-volume publication in accordance with subsection 304a(a)(1) of Public Law 92-500; 86 Stat 816; 33 USC 1251, hereinafter referred to as the "Act" and are available for review. The proposed Water Quality Criteria prescribe maximum limits of acceptability for constituents in the Nation's waters. A companion document, Volume II, Water Quality Information, which provides background information on water quality integrity, measurement techniques, and classification of waters has also been completed. Notice of its availability for review will be published shortly in the FEDERAL REGISTER.

Section 304(a)(1) of the Act requires that the Administrator, within one year of enactment (by October 18, 1973), publish (and revise from time to time thereafter), water quality criteria. The criteria are to reflect the latest scientific knowledge concerning all identifiable effects of water pollutants on health, fish and other aquatic life, plant life, wildlife, shorelines, and recreation; concentration and dispersal of pollutants; and effects of pollutants on biological community diversity, productivity, and stability, including factors affecting rates of eutrophication and sedimentation.

Water Quality Criteria are intended to provide the scientific basis for States' water quality standards. Revision of the water quality standards of most of the States has been, or is now in the process of being, completed, as required by the Act. The scientific basis for this revision was the National Technical Advisory Committee (NTAC) report on Water Quality Criteria (1968). The new criteria now being proposed will be the basis for future revision of State standards. The major source of information for the proposed criteria was the National Academy of Sciences (NAS) Water Quality Criteria of 1972; however, some of the information was derived from the NTAC criteria, as well as from results of studies conducted by EPA.

Comparison of the NTAC, NAS, and Proposed EPA Criteria. The major differences between the EPA and NAS documents lie in the areas of: Thermal, nutrients, microbiological indicators for recreational waters, radioactivity, toxic substances, and pesticides.

Thermal. Thermal criteria appearing in the freshwater section of the EPA document are essentially those of NAS. Both documents have the criteria divided into maximum weekly averages according to growth, reproduction, and preservation of species diversity and upper lethal temperatures. Marine temperature criteria in the EPA document are presently based upon the NTAC recommendations since there is a lack of data on thermal effects in marine systems. As information becomes available the marine thermal section of the EPA criteria will be revised and updated in a manner consistent with that of the freshwater section.

Nutrients. Nutrient levels in the EPA criteria document are in close agreement with those levels found in the NTAC document.

The EPA phosphorus criterion appears in the section on recreational waters based on the role of phosphorus in accelerating the growth of nuisance aquatic plants. No limits of acceptability are prescribed for phosphorus in receiving waters, but the rationale expresses the belief that phosphorus should be controlled to specific limits as a mechanism for reducing the rate of eutrophication.

Nitrogen as nitrate and nitrite is addressed by the three criteria documents. The EPA document prescribes a maximum acceptable concentration of 100 mg/l nitrate and 10 mg/l nitrite in livestock waters. The NTAC document has no criteria recommendations for nitrogen in agricultural (livestock) waters.

No limits are prescribed for nitrogen in the freshwater section of either the EPA or NAS documents. NTAC recommends monitoring the normal phosphorous nitrogen ratios. For public water supplies NTAC recommends a total of 10 mg/l for both nitrate and nitrite. Both EPA and NAS prescribe a maximum of 10 mg/l nitrate and 1 mg/l nitrite.

Microbiological indicators. Both EPA and NTAC microbiological indicators for recreational waters are based primarily upon fecal coliform and have the same numerical criteria. NAS does not recommend specific limits for the presence or concentration of microorganisms in recreational waters.

Radioactivity. The EPA radiation criteria for public water supplies generally incorporates the philosophy of the Federal Radiation Council and other National and International advisory bodies. They prescribe acceptable concentrations of man-made radionuclides in man-rem/year. The NTAC report recommends protection of humans by limiting the intake of Gross beta, Radium-226, and Strontium-90.

Harmful constituents. The EPA Criteria for harmful constituents (exclusive of pesticides) are based primarily upon NAS recommendations, and prescribe specific maximum acceptable limits for numerous substances for which no limits were recommended by NTAC. For example, the only such constituents (exclusive of pesticides) for which NTAC recommended maximum limits and/or application factors for freshwater aquatic life were cadmium, chromium, copper, zinc, alkylate sulfonates (LAS) and alkylbenzene sulfonates (ABS). Flow-through bioassays were recommended for cyanide and ammonia by NTAC. The EPA and NAS criteria documents expanded the toxic list considerably, establishing maximum acceptable concentrations and/or application factors for mercury, nickel, lead, hydrogen sulfide, chlorine, ammonia, cyanide, Polychlorinated Biphenyls (PCB's) and phthalate esters. The maximum acceptable concentrations prescribed by EPA for chromium, copper and zinc were substantially changed from those recommended by NTAC. For marine aquatic life EPA prescribed maximum specific limits of acceptability and established application factors, whereas NTAC recommended the use of a single application factor for all metals in marine waters.

Pesticides. EPA has adopted the NAS recommendations for all pesticide criteria for freshwater and marine aquatic life and wildlife. Major variations exist between the NAS and EPA pesticide criteria and those of NTAC. Both NAS and EPA prescribe specific numerical maximum acceptable levels for many of the organochlorine, organophosphorus and carbamate insecticides and for several of the herbicides, fungicides and defoliants for freshwater aquatic life. NTAC on the other hand recommends that the addition of all organochlorines to freshwater be avoided. NTAC also recommends the use of application factors of 1/10 the 96-hour median tolerance limit (TLm) for non-persistent and non-cumulative pesticides and 1/20 the 96-hour average TLm for all other pesticides, with the 24-hour average for each not to exceed 1/20 and 1/100 respectively. The NAS and EPA criteria establish application factors of 1/100 the 96-hour LC_{50} for pesticides for which specific data are not available.

For marine aquatic life both the NAS and the EPA criteria establish application factors of 1/100 the 96-hour LC_{50} for all pesticides, whereas NTAC recommends 0.05 $\mu g/l$ as the maximum concentration for the organochlorine and several of the organophosphates. Application factors of 1/100 the 96-hour TLm are the NTAC recommended maximum for the other broad group (carbamates, botanicals, arsenic, etc.) but with concentrations not to exceed 10 $\mu g/l$.

The NTAC document does not make recommendations for marine wildlife. Both NAS and EPA criteria recommend maximum levels in tissues of fish of the original species consumed by birds and mammals.

Dissolved oxygen. Dissolved oxygen limits in the EPA criteria document are similar to those of both the NTAC and NAS criteria with some refinements. Allowance for a broader variation for temperature is incorporated into the EPA document. The NAS criteria use a natural minimum DO as a base for calculating accepted DO. Since temperature, natural DO levels, and saturation are interrelated, the EPA document has used a temperature dependent chart to pre-

scribe a range of acceptable levels in contrast to NTAC but generally consistent with NAS recommendations.

Public comment. A period of 180 days will be allowed for public comments. Limited copies of the EPA criteria document together with a separately bound comparative summary of NTAC, NAS and EPA constituents will be available at the Office of Public Affairs of the Environmental Protection Agency, Washington, D.C. 20460, each of the ten EPA regional offices and each of the State water pollution control agencies. Advanced copies of the NAS criteria document are expected to be available at these same locations by November 30, 1973, for comparison in developing comments. To be considered, comments must be submitted in writing to the Director, Division of Water Quality and Non-Point Source Control, Environmental Protection Agency, Washington, D.C. 20460, on or before April 26, 1974.

Dated October 18, 1973.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.73-22839 Filed 10-25-73;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT LINES, INC. AND LYKES BROS. STEAM CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 15, 1973. Any person desiring a hearing on the proposed agreement 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 agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

H. G. Blocklin, Vice President
Central Atlantic Division
Lykes Bros. Steamship Co., Inc.
1100 Connecticut Avenue NW.
Washington, D.C. 20036

Agreement No. 10091, between American Export Lines, Inc. (AEL) and Lykes Bros. Steamship Co., Inc. (Lykes), provides for the appointment of Lykes as AEL's agent at all U.S. Gulf ports on shipments destined to or originating from India, Pakistan, Bangladesh and Sri Lanka. Lykes shall perform all acts and functions customarily performed by a steamship agent, such as entering and clearing of vessels, husbanding services, signing of contracts of afreightment and bills of lading, procuring necessary ship's personnel, solicitation and booking of cargo, and other agency responsibilities under the terms and conditions set forth in the agreement. All stevedoring and towage contracts are excluded from the agreement and will be handled exclusively by AEL.

Dated October 23, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-22817 Filed 10-25-73;8:45 am]

TRANSPACIFIC PASSENGER CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before November 15, 1973. Any person desiring a hearing on the proposed agreement 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 agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Ronald C. Lord, General Manager
Trans-Pacific Passenger Conference
311 California Street
San Francisco, California 94104

Agreement No. 131-258 filed by the Trans-Pacific Passenger Conference, modifies Rule E-7, paragraph A, concerned with "Grounds for Cancellation" of the appointment of a Conference Appointed Travel Agent by adding a new paragraph "e" to sub-paragraph 8, which reads as follows:

e. offering or giving any unauthorized monetary consideration or other thing of value as an inducement, or in return for, the sale of a Member's transportation;

Agreement No. 131-258 also modifies Rule E-6, paragraph G, concerned with "Recall of Unearned Commission" by adding the following language:

If the Member has imposed a cancellation fee upon the portion of the ticket not utilized, the Agent shall be entitled to commission on such cancellation fee; provided, however, that if the Member shall thereafter allow such cancellation fee as a credit against a subsequent booking by the same passenger, no additional commission shall be paid to *any* Agent on the amount of such cancellation fee so allowed.

These modifications will also be made in Exhibit D to Rule E-1 entitled "Rules of the Trans-Pacific Passenger Conference Affecting Travel Agencies".

Dated October 19, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-22818 Filed 10-25-73;8:45 am]

[Independent Ocean Freight Forwarder License No. 1060]

CRANE OVERSEAS SHIPPING INC.

Order of Revocation

By letter of September 28, 1973, the Federal Maritime Commission received notification that Crane Overseas Shipping, Inc., 17 Battery Place, New York, New York 10004 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 1060 for revocation, effective immediately.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) Section 7.04(f) (dated 9/15/73);

It is ordered, That Independent Ocean Freight Forwarder License No. 1060 be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of Crane Overseas Shipping, Inc. be and is hereby revoked effective September 28, 1973.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Crane Overseas Shipping, Inc.

AARON W. REESE,
Managing Director.

[FR Doc.73-22819 Filed 10-25-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8365]

KANSAS CITY POWER AND LIGHT CO.

Order Accepting Tendered Tariff Sheets, Permitting Interventions, Providing for Hearing and Establishing Procedures

OCTOBER 16, 1973.

Kansas City Power and Light Company (Company), on August 17, 1973, tendered for filing proposed changes in its schedules of rates and charges for wholesale firm power service.[1] The proposed changes reflect an increase, according to the Comany, of $743,773 for demand and energy charges and a related pricing of the base "fuel cost" in the fuel adjustment clause at 30 cents per million Btu to reflect the appropriate average fuel cost to the Company in 1972. The Company states that the proposed effective date for the proposed changes as to all of its jurisdictional customers except Missouri Public Service Company (Missouri Public) and Missouri Power and Light Company (Missouri Power) is October 17, 1973. The proposed effective dates for the changes as to Missouri Public and Missouri Power are April 15, 1975, and June 1, 1974, respectively, when the contracts between the Company and each of the two customers expire by their own terms pursuant to notices of termination delivered by the Company to the customers.

The Company states that the new schedules of rates and charges are designed to increase the Company's rate of return to 8.10 percent on its wholesale service to each class of customers based on its 1972 cost of service and sales to them.

Public notice of this filing was issued on August 23, 1973, which required that protests or petitions to intervene be filed by September 18, 1973. Petitions to intervene were timely filed by Coffey County Rural Electric Cooperative Association, Inc., and the City of Pomona, Franklin County, Kansas. A timely protest was filed by the City of Gardner, Kansas. Their protest will be considered in determining what action is appropriate.

In support of its filing, the Company states that it has experienced substantial increases in all elements of its costs, including fuel, labor, interest, taxes, and construction to provide additional capacity and meet environmental requirements.

Review of the rate filing and the pleadings indicate that issues are raised which may require development in an evidentiary hearing. The proposed increased rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, we shall provide for hearing thereon and shall suspend the proposed changes for the full five month statutory period as to all of the Company's jurisdictional customers except Missouri Public and Missouri Power.

We shall accept this rate increase for filing as to Missouri Power and Missouri Public to become effective, subject to refund, upon the contractually specified dates and proper notice of such being filed with this Commission pursuant to § 35.15 of the Regulations under the Federal Power Act (18 CFR 35.15). (See our Order of June 14, 1973, in *Gulf States Utilities Company*, Docket No. E-8121.)

The Commission finds

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Kansas City's Rate Schedules, as proposed to be amended in this docket, and that the tendered rate schedule supplements be accepted for filing and suspended as hereinafter provided.

(2) As to the fixed rate contracts with Missouri Public Service Company and Missouri Power and Light Company (FPC Nos. 49 and 51 respectively), the instant rate increase application shall be effective, subject to refund, upon the contractually specified dates and proper notice of such being filed with this Commission pursuant to § 35.15 of the Regulations under the Federal Power Act (18 CFR 35.15).

(3) Participation in this proceeding of the above-named petitioners to intervene may be in the public interest.

The Commission orders

(A) Pursuant to authority of the Federal Power Act, particularly sections 205 and 206, the Commission's Rules and Regulations (18 CFR, Chapter I), a prehearing conference shall be held pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure on February 27, 1974, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. A hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in Company's FPC Rate Schedules, as proposed to be amended herein shall be held commencing on February 28, 1974.

(B) At the prehearing conference on February 13, 1974, the Company's prepared testimony together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding.

(C) On or before January 17, 1974, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence shall be filed on or before January 31, 1974. Any rebuttal evidence by Company shall be served on or before February 14, 1974.

(D) As to the fixed rate contracts with Missouri Public Service Company and Missouri Power and Light Company (FPC Nos. 49 and 51 respectively), the instant rate increase application shall become effective, subject to refund, upon the contractually specified dates and proper notice of such being filed with this Commission pursuant to § 35.15 of the Regulations under the Federal Power Act (18 CFR 35.15).

(E) Pending hearing and a final decision in this proceeding, the Company's proposed rate schedule supplements to all its jurisdictional customers except Missouri Public Service Company and Missouri Power and Light Company, tendered for filing on August 17, 1973, are suspended and the use thereof deferred until March 18, 1974.

(F) 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 hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(G) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene, and *Provided further*, That the admission of such intervenors should not be construed as recognition by the Commission that they, or any of them, may be aggrieved because of any order or orders issued by the Commission in this proceeding.

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

By the Commission.

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

APPENDIX A

Wholesale customer	Rate schedule filed herewith	Superseding and replacing
1. City of Prescott, Kans.	Schedule WFP-1M	Rate provisions in sections 5 and 6 in KCPL's FPC rate schedule No. 30.
2. Missouri Public Service Co.	Schedule WFP-1P	Rate provisions in article IV in KCPL's FPC rate schedule 49.
3. Missouri Power & Light Co.	Schedule HVFP-2	Schedule HVFP-1 in KCPL's FPC rate schedule No. 51.
4. City of Higginsville, Mo.	Schedule WFP-1M	Schedule MWP-1 in KCPL's FPC rate schedule No. 60.
5. City of Salisbury, Mo.	do	Schedule MWP-1 in KCPL's FPC rate schedule No. 61.
6. City of Armstrong, Mo.	do	Schedule MWP-1 in KCPL's FPC rate schedule No. 62.
7. City of Slater, Mo.	do	Schedule MWP-1 in KCPL's FPC rate schedule No. 64.
8. City of Gardner, Kans.	do	Schedule MWP-1 in KCPL's FPC rate schedule No. 66.
9. Sugar Valley Electric Cooperative Association, Inc.	Schedule CFP-3 Sugar Valley.	Schedule CFP-2 in KCPL's FPC rate schedule No. 68.
10. Coffey County Rural Electric Cooperative Association, Inc.	Schedule CFP-3 Coffey County.	Schedule CFP-2 in KCPL's FPC rate schedule No. 69.
11. City of Pomona, Kans.	Schedule WFP-1M	Schedule MWP-1 in KCPL's FPC rate schedule No. 71.

[1] See Appendix A.

[FR Doc.73-22698 Filed 10-25-73;8:45 am]

[Docket No. G–11984, etc.]

MOBIL OIL CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 16, 1973.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make and protest with reference to said applications should on or before November 9, 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.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G–11984..... D 10–1–73	Mobil Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	El Paso Natural Gas Co., Blanco et al. (Jicarilla Area), Rio Arriba County, N. Mex.	Nonproductive	.....
G–12797..... D 2–22–73	HNG Oil Co., P.O. Box 767, Midland, Tex. 79701.	Union Texas Petroleum, a division of Allied Chemical Corp., Big Hill Field, Jefferson County, Tex.	(2)	.....
G–13633..... C 9–24–73	Pennzoil Producing Co. (Operator) et al., 900 Southwest Tower, Houston, Tex. 77002.	Trunkline Gas Co., East Edinburg and San Carlos Fields, Hidalgo County, Tex.	19.6	14.65
G–16220..... D 10–1–73	Mobil Oil Corp.....	El Paso Natural Gas Co., Brown Bassett (Sour) Field, Terrill County, Tex.	Nonproductive	.....
CI61–1565..... C 9–25–73	Anadarko Production Co., P.O. Box 9317, Fort Worth, Tex. 76107.	Panhandle Eastern Pipe Line Co., Hovey Morrow Waterflood Unit, Texas County, Okla.	[3] 19.733	14.65
CI64–1507..... C 10–4–73	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Northeast Trail Field, Dewey County, Okla.	[3] 16.773	14.65
CI66–634..... E 9–21–73	Charles B. Marino (successor to Cities Service Oil Co.) 3703 Yoakum, Houston, Tex. 77006.	United Gas Pipe Line Co., Red Fish Bay Area, Nueces County, Tex.	17.666	14.65
CI67–364..... D 10–1–73	Mobil Oil Corp.....	El Paso Natural Gas Co., Brown Bassett (Sweet) Field, Terrill County, Tex.	Nonproductive	.....
CI68–226..... D 9–24–73	Sohio Petroleum Co. (Operator) et al., 1100 Penn Tower, Oklahoma City, Okla. 73118.	Transcontinental Gas Pipe Line Corp., Washington Field, St. Landry Parish, La.	(4)	.....
CI68–1255..... C 10–1–73	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., Aztec, Angels Peak, and Blanco Fields, San Juan and Rio Arriba Counties, N. Mex.	[5] [6] 24.4807 [7] 28.0	15.025 15.025
CI71–718..... C 9–27–73 [8]	Perry R. Bass (Operator), et al., 12th Floor, Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Northern Natural Gas Co., Block 16 Field, Ward County, Tex.	[6] 20.5	14.65
CI73–338..... C 9–20–73 [9]	Transwestern Gas Supply Co., P.O. Box 2521, Houston, Tex. 77001.	Transwestern Pipeline Co., South Vici Field, Dewey County, Okla.	[6] 38.0	14.65
CI73–938..... C 10–1–73	Continental Oil Co.....	El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex.	[6] 28.0	15.025
CI74–198..... A 9–20–73	Aztec Oil & Gas Co., 2000 First National Bank Bldg., Dallas, Tex. 75202.	Southern Union Gathering Co., Aztec-Pictured Cliffs Pool and Blanco Pictured Cliffs Pool, San Juan County, N. Mex.	[10] 15.0	15.025
CI74–200..... A 10–1–73	Phillips Petroleum Co., Bartlesville, Okla. 74004.	Michigan Wisconsin Pipe Line Co., Hugoton-Anadarko Area, Sherman County, Tex.	[6] [11] 50.0	14.65
CI74–201..... (G–14142) B 9–24–73	Quintin Little, P.O. Box 1509, Ardmore, Okla. 73401.	Lone Star Gas Co., Sherman Field, Grayson County, Tex.	Depleted	.....
CI74–202..... (CI61–230) B 9–26–73	Edwin L. Cox (Operator) et al.....	Panhandle Eastern Pipe Line Co., Carthage Field, Texas County, Okla.	Depleted	.....
CI74–203..... (CI62–407) B 10–4–73	Texaco, Inc., P.O. Box 52332, Houston, Tex. 77052.	Transcontinental Gas Pipe Line Corp., Bayou Couba Field, St. Charles Parish, La.	Nonproductive	.....

[1] Lease expired, well plugged and abandoned.
[2] Subject to downward B.t.u. adjustment.
[3] Including upward B.t.u. adjustment.
[4] Application for approval of partial abandonment of service pursuant to an agreement for the purchase by Transcontinental of the Cockfield "B" and "D" Sand Reservoirs of the Washington Field for the Washington Storage Project.
[5] Subject to upward and downward B.t.u. adjustment.
[6] Rate for gas from wells completed prior to June 1, 1970.
[7] Rate for gas from wells completed on or after June 1, 1970.
[8] Being renoticed, because by amendment to application filed Sept. 27, 1973, Applicant reflects a change in price.
[9] Amendment to a pending application.
[10] Subject to B.t.u. and pressure base adjustment.
[11] Applicant is willing to accept a certificate conditioned to the area rate determined in accordance with Commission Opinion No. 586.

Filing code A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.73-22697 Filed 10-25-73;8:45 am]

FEDERAL RESERVE SYSTEM

FROSTBANK CORP.

Acquisition of Bank

FrostBank Corporation, San Antonio, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Colonial National Bank, San Antonio, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 12, 1973.

Board of Governors of the Federal Reserve System, October 18, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-22758 Filed 10-25-73;8:45 am]

NORTHERN STATES BANCORPORATION, INC. AND TWIN GATES CORP.

Acquisition of Banks

Northern States Bancorporation, Inc., Detroit, Michigan, and Twin Gates Corporation, Wilmington, Delaware, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Union National Bank and Trust Company of Marquette, Marquette, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

These applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 8, 1973.

Board of Governors of the Federal Reserve System, October 18, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-22759 Filed 10-25-73;8:45 am]

TWIN GATES CORP. AND NORTHERN STATES BANCORPORATION

Acquisition of Banks

Twin Gates Corporation, Wilmington, Delaware (Twin Gates), and its subsidiary, Northern States Bancorporation, Inc., Detroit, Michigan (Northern States), have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) for Northern States to acquire directly, and for Twin Gates to acquire indirectly, 51 percent or more of the voting shares of First Citizens Bank, Troy, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

These applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 12, 1973.

Board of Governors of the Federal Reserve System, October 18, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-22760 Filed 10-25-73;8:45 am]

UNITED MISSOURI BANCSHARES, INC.

Acquisition of Bank

United Missouri Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of United Missouri Bank of Jefferson City, N.A., Jefferson City, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 12, 1973.

Board of Governors of the Federal Reserve System, October 18, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-22761 Filed 10-25-73;8:45 am]

AMERICAN BANCORPORATION

Order for Hearing

In the matter of the application of American Bancorporation, Columbus, Ohio, for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent of the voting shares of The American Bank of Central Ohio, Harrisburg, Ohio.

On October 4, 1973, notice of subject application was published in the FEDERAL REGISTER (38 FR 27550). Additionally, in accordance with section 3(b) of the Act (12 U.S.C. 1842(b)), notice of receipt of subject application was duly given to the Superintendent of Banks of the State of Ohio. Within 30 days thereafter, the Superintendent submitted to the Board in writing his statement expressing disapproval of the application. In light of the Superindendent's submission, the Board is required by section 3(b) of the Act to schedule a hearing on the application. Accordingly, *It is hereby ordered*, That, pursuant to section 3(b) of the Bank Holding Company Act (12 U.S.C. 1842(b)), a hearing with respect to this application be held commencing at 9:30 a.m., on Thursday, November 15, 1973, at the Federal Reserve Bank of Cleveland, 1455 East Sixth Street, Cleveland, Ohio (Post Office Box 6387, Cleveland, Ohio 44101), before a duly designated Administrative Law Judge, such hearing to be conducted in accordance with the Board's Rules of Practice For Formal Hearings (12 CFR Part 263). *It is further ordered*, That the following matters will be the subject of consideration at said hearing, without prejudice to the designation of additional related matters and questions upon further examination:

(1) Whether the proposed acquisition would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States;

(2) Whether the effect of the proposed acquisition in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or in any other manner would be in restraint of trade, and whether any anticompetitive effects found with respect to the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served; and

(3) The financial and managerial resources and future prospects of the Applicant and of the bank proposed to be acquired, and the convenience and needs of the community to be served.

It is further ordered, That any person desiring to give testimony, present evidence, or otherwise participate in these proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before November 2, 1973, a written request containing a statement of the nature of the Petitioner's interest in the proceedings, the extent of the participation desired, a summary of the matters concerning which the Petitioner desires to give testimony or submit evidence, and the names and identity of witnesses who propose to appear. Such requests will be submitted to the designated Administrative Law Judge for his disposition.

By order of the Board of Governors, October 25, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-22994 Filed 10-25-73;11:38 am]

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Notice of Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Business Advisory Council on Federal Reports to be held in Room 2010, New Executive Office Building, 726 Jackson Place

NW., Washington, D.C., on November 1, 1973, at 9:30 a.m.

The purpose of the meeting is to conduct Council business such as the Treasurer's Report, Council budget, reports of various Committees, and election of Council officers; to hear remarks from the Assistant Director for Management and Operations, and the Acting Chief of the Statistical Policy Division; and to receive reports of recent actions by the Office of Management and Budget which affect the burden on business firms of reporting to Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Acting Chief, Statistical Policy Division, Room 10202B, New Executive Office Building, Washington, D.C. 20503, Telephone 202-395-3730.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.73-22807 Filed 10-25-73;8:45 am]

POSTAL SERVICE

MONEY ORDERS

Notice of New Nationwide Limits

On October 13, 1973, the U.S. Postal Service completed nationwide conversion of its domestic money order system to an improved system. Under the improved system the Postal Service offers domestic money orders in amounts up to $300, instead of the former limitation of $100, for a single money order. There is no limitation on the number of money orders that may be purchased at one time, except when the Postal Service may impose temporary restrictions.

The fee for money orders in amounts over $100 and up to $300 is 40 cents. Fees for amounts up to $100 are unchanged. See 39 CFR 171.1 (35 FR 19481).

This nationwide domestic money order system is operating under interim regulations available in post offices or from the Finance Department. A revised Part 171 of Title 39, CFR, will be issued after corresponding changes have been implemented for the international and military money order programs.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.73-22774 Filed 10-25-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5407]

CONNECTICUT YANKEE ATOMIC POWER CO.

Proposed Issue and Sale of Promissory Note Pursuant to Loan Agreement

OCTOBER 19, 1973.

Notice is hereby given that Connecticut Yankee Atomic Power Co., P.O. Box 270, Hartford, Connecticut, 06101, (Connecticut Yankee), an electric utility subsidiary company of Northeast Utilities and New England Electric System, both of which are registered holding companies, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to said application, which is summarized below, for a complete statement of the proposed transaction.

Connecticut Yankee is the owner of a 575,000 kw nuclear electric generating plant (Plant), located at Haddam, Connecticut, which has been in operation since January 1, 1968. All of the outstanding shares of Connecticut Yankee's common stock are owned by eleven New England electric utilities.

In order to comply with more stringent environmental regulations and, in particular, the standards and dose criteria limits promulgated by the Atomic Energy Commission (A.E.C.), Connecticut Yankee has undertaken to provide its Haddam plant with additional pollution control equipment (Project). The total cost of the Project, a substantial portion of which has already been installed or is in the process of installation, is estimated to be approximately $9,000,000.

The Connecticut Development Authority (Authority) is authorized under the laws of the State of Connecticut to assist in the planning and financing of facilities to control environmental pollution derived from the operation of industry and commerce. In this connection, the Authority may extend credit or make loans secured by loan agreements, and issue its bonds for such purposes. Accordingly, Connecticut Yankee proposes to enter into an agreement (Loan Agreement) with the Authority with respect to the construction and financing of the Project at its Haddam plant, and pursuant thereto, issue to the Authority its promissory note (Note), in an aggregate amount not to exceed $9,000,000. In turn, the Authority will issue and sell its Pollution Control Revenue Bonds (Pollution Bonds) up to a total aggregate amount of $9,000,000 and advance the proceeds from the sale to Connecticut Yankee pursuant to the terms of the Loan Agreement to provide funds theretofore expended and to be expended by Connecticut Yankee for the construction of the Project.

The Pollution Bonds will be issued under and secured by a Trust Indenture (Indenture) between the Authority and Hartford National Bank and Trust Co. ("Trustee"). It is stated that the Bonds will not constitute general obligations of the State, but will be revenue bonds, the principal and interest on which will be payable solely out of funds paid by Connecticut Yankee pursuant to the Loan Agreement. It is expected that the Pollution Bonds will be dated November 1, 1973, and bear a final maturity date of November 1, 1997. The terms of the Pollution Bonds will include serial maturities and mandatory sinking fund provisions in equal annual amounts, which, in the aggregate, will retire the entire issue by the final maturity date. The Indenture will contain certain redemption provisions which will include the right of Connecticut Yankee to cause the redemption of the Pollution Bonds, in whole or in part, at any time after they have been outstanding for 10 years at an initial premium of 3 percent declining by ½ percent every year.

It is stated that the Pollution Bonds are expected to be marketed pursuant to arrangements among Connecticut Yankee, the Authority and Morgan Stanley & Co., Incorporated. Connecticut Yankee states that the interest payable on the Pollution Bonds will be exempt from Federal income taxation. It is not possible to ascertain in advance precisely the interest rate which may be obtained in connection with the issuance of the Pollution Bonds, but Connecticut Yankee is advised that tax-exempt bonds of like quality and tenor have historically carried an annual interest rate approximately one and one-half to two percent lower than comparable taxable long-term corporate bonds.

The Note which Connecticut Yankee will issue to the Authority will be in an aggregate principal amount equal to the amount of the Pollution Bonds. Interest and principal on the Note will be payable at times and in amounts corresponding to interest and principal requirements on the Pollution Bonds. The Loan Agreement requires that such payments on the Note shall be made in all events, notwithstanding failure of the Project to operate successfully, any casualty, condemnation, failure of title or other occurrence. The Note will be pledged under the Indenture by assignment to the Trustee. The Loan Agreement further provides that upon any event of default therein specified, all unpaid principal of and accrued interest on the Note may be declared, and thereupon shall be, immediately due and payable.

A statement of the fees, commissions and expenses paid or incurred, or to be paid or incurred, in connection with the proposed transactions will be supplied by amendment. It is stated that the Public Utilities Commission of the State of Connecticut has jurisdiction over the proposed transactions. The order of that commission will be supplied by amendment. No other State commission, and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Connecticut Yankee submits that the issue of its Note to the Authority should be exempted from rule 50 by reason of clause (a) (5) thereof on the ground that the proposed transactions do not lend themselves as a practical matter to competitive bidding.

Notice is further given that any interested person may, not later than November 12, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as filed, or as it may be amended, which he desires to controvert, or he may request that he be notified if the Commission

should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-22778 Filed 10-25-73;8:45 am]

LE CHATEAU INN & COUNTRY CLUB, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

OCTOBER 11, 1973.

I. Le Chateau Inn & Country Club, Inc., Star Route, White Haven, Pennsylvania (Le Chateau), incorporated in the State of Pennsylvania on May 12, 1966, filed with the Commission on October 27, 1971, a Notification on Form 1-A and an Offering Circular relating to an offering of 33,800 shares of $2.00 par value common stock at $10.00 per share. On July 14, 1972, the Commission received an amendment to the Le Chateau filing increasing the number of shares to 49,475 and naming L. S. Chase Corporation, 510 North Park Road, Reading, Pennsylvania 19610 as underwriter. The aggregate offering price was $494,750. The filing was made for the purpose of obtaining an exemption from the registration provisions of the Securities Act of 1933, pursuant to section 3(b) thereof and regulation A promulgated thereunder.

II. The Commission on the basis of information provided by its staff, has reason to believe that:

A. The Notification and Offering Circular and the amended Notification and Offering Circular of Le Chateau contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading particularly with respect to:

1. The state of employee relations;
2. The actual amount of monies owed to creditors and the period of time such debts were outstanding;
3. The number of lawsuits pending against it and the amounts involved in such suits;
4. Le Chateau's unsuccessful attempt to lease its facilities to independent operators;
5. Potential competition from a national chain of motels which was planning to open an operation in the immediate vicinity of Le Chateau;
6. Inability to meet mortgage payments;
7. Inability to pay certain withholding taxes which it collected and were owing;
8. Foreclosure on major properties; and
9. Involuntary Petition for Bankruptcy.

B. The Offering, if made, would be in violation of section 17 of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of Le Chateau Inn & Country Club, Inc. under Regulation A be temporarily suspended,

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be and hereby is, temporarily suspended.

It is further ordered, Pursuant to rule 7 of the Commission's rules of practice, that the Issuer file an answer to the allegations contained in this order within thirty days of the entry thereof.

Notice is hereby given That any person having interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-22779 Filed 10-25-73;8:45 am]

[811-1969]

PUTNAM ASSOCIATES FUND, INC.

Notice of Proposal To Terminate Registration

OCTOBER 18, 1973.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Putnam Associates Fund, Inc., 265 Franklin Street, Boston, Massachusetts 02110 (Putnam), registered under the Act as an open-end, nondiversified management investment company, has ceased to be an investment company as defined in the Act.

Putnam was organized as a Massachusetts corporation on October 23, 1969, and filed a Notification of Registration on Form N-8A and a Registration Statement on Form N-8B-1 under the Act with the Commission on November 6, 1969. Putnam also filed a Registration Statement on Form S-5 under the Securities Act of 1933 (1933 Act) on November 14, 1969.

The Registration Statement filed under the 1933 Act has never been declared effective, and, pursuant to a request for withdrawal filed by Putnam on June 16, 1972, Putnam received a notice of withdrawal from the Commission on October 31, 1972. No shares of stock of Putnam were ever issued, nor have any assets been contributed to Putnam. Counsel for Putnam has informed the Commission that Putnam is neither engaged in or proposes to engage in the business of investing, reinvesting, or trading in securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given, that any interested person may, not later than November 13, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-22780 Filed 10-25-73;8:45 am]

[811-1857]

RAINIER FUND, INC.

Notice of Proposal To Terminate Registration

OCTOBER 18, 1973.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Rainier Fund, Inc., 700 Court "A", Tacoma, Washington 98402 (Fund), registered under the Act as an open-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

Fund was organized as a Washington corporation on July 27, 1971, and filed a Notification of Registration Statement on Form N-8A and a Registration Statement on Form N-8B-1 under the Act on November 5, 1971. Fund also filed a Registration Statement on Form S-5 under the Securities Act of 1933 (1933 Act) on March 1, 1972.

Fund has requested that its registration statement under the 1933 Act be declared abandoned. None of its shares have been sold to any investors other than the original eight investors for the purpose of raising the initial required capital of $100,000. These funds have been kept on deposit with the Seattle—First National Bank of Seattle, Washington, and are to be refunded to these initial investors. On September 28, 1973, the Board of Directors of Fund adopted a plan of liquidation and, upon the completion of the liquidation, Fund will be dissolved pursuant to the laws of the State of Washington.

Section 3(c)(1) of the Act excepts from the definition of "investment company" any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given, that any interested persons may, not later than November 13, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request.

As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-22781 Filed 10-25-73;8:45 am]

[70-5394]

SOUTHERN CO.

Notice of Proposed Issue and Sale of Common Stock at Competitive Bidding

OCTOBER 19, 1973.

Notice is hereby given that The Southern Co., Perimeter Center East, P.O. Box 720071, Atlanta, Georgia, 30346 (Southern), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Southern proposes to issue and sell, subject to the competitive bidding requirements of rule 50 under the Act, additional authorized but unissued shares of its common stock, par value $5.00 per share, in an amount which will result in aggregate cash proceeds of between $135 and $175 million. The precise number of shares of such additional common stock to be issued and sold has not been determined as of this date, but will be determined by Southern in light of then existing market conditions and set forth by further amendment. As of July 31, 1973, Southern had issued and outstanding 70,749,500 shares of its 110,000,000 authorized shares of common stock.

Pursuant to authorization heretofore granted by the Commission (Holding Company Act Release No. 17824), Southern expects that through March 31, 1974, equity investments will be made by it in its operating subsidiaries in the aggregate amount of $275,800,000. Of such amount, $112,900,000 had been invested as of July 31, 1973, with funds derived from internal sources and borrowings evidenced by short-term notes payable. It is expected that an aggregate of $153,000,000 of such short-term notes payable will be outstanding at the time of the sale of the additional common stock. Southern proposes to use the proceeds from the sale of the additional common stock to reduce the amount of short-term notes payable outstanding at the time of such sale.

Estimates of the fees and expenses to be incurred by Southern in connection with the proposed sale of additional common stock are to be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 14, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended, or as it may be further amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration as amended, or as it may be further amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-22782 Filed 10-25-73;8:45 am]

[70-5410]

UTAH POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Notes

Notice is hereby given that Utah Power & Light Co., 1407 West North Temple Street, P.O. Box 899, Salt Lake City, Utah, 84110 (Utah), an electric utility company and a registered holding com-

pany, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Utah proposes to issue and sell, from time to time prior to September 30, 1974, short-term notes in the form of commercial paper and notes to banks, in an aggregate amount not exceeding $58,000,000 at any one time outstanding. The determination of the type of note to be issued will be based on the net effective cost of the borrowings to Utah. Utah intends to utilize the proceeds of the sale of its notes for construction expenditures estimated to be approximately $110,000,000 for 1973 and $95,000,000 for 1974. The notes will be repaid by Utah through the issue and sale of additional long-term debt and equity securities prior to September 30, 1974.

The proposed bank notes will mature not more than nine months after the date of issue, and, in any event on or before September 30, 1974, and will provide for payment in whole or in part at any time without penalty or premium. The notes will bear interest at not more than the prime commercial rate then in effect for unsecured loans at the bank to which the note is issued, and any change in such rate shall become effective on date of the change in the prime commercial rate at the bank to which the note is issued. Utah anticipates that it will be able to obtain lines of credit for the proposed borrowing with the fourteen commercial banks listed below up to the maximum amount indicated for each bank. Utah states that there are no specific compensating balances required by the lending banks, that a normal level of working capital is maintained by Utah to meet its cash needs and that such working capital is kept in the lending banks in approximate proportion to the lines of credit used by Utah in each bank. Such working capital has recently averaged 15 percent of the lines of credit maintained with the banks, and assuming a prime rate of interest of 10 percent and assuming that the balances maintained were required as compensating balances, the effective cost of the notes would be approximately 11¾ percent.

Name of bank:	*Maximum amount to be borrowed*
The Continental Bank and Trust Company, Salt Lake City, Utah	$1,000,000
First Security Bank of Utah, N.A., Salt Lake City, Utah	5,000,000
Walker Bank & Trust Company, Salt Lake City, Utah	3,000,000
Zions First National Bank, Salt Lake City, Utah	2,600,000
United Bank of Denver, Denver, Colo.	2,500,000
Bank of Utah, Ogden, Utah	300,000
Commercial Security Bank, Ogden, Utah	1,000,000
First Security State Bank, Salt Lake City, Utah	100,000
Valley Bank & Trust Company, South Salt Lake, Utah	500,000
The Chase Manhattan Bank, N.A., New York, N.Y.	11,000,000
Morgan Guaranty Trust Company of New York, New York, N.Y.	11,000,000
Mellon National Bank and Trust Company, Pittsburgh, Pa.	11,000,000
Harris Trust and Savings Bank, Chicago, Ill.	3,000,000
Irving Trust Company, New York, N.Y.	6,000,000
Total	58,000,000

The proposed commercial paper will be in the form of promissory notes with varying maturities not to exceed 270 days, will be issued in denominations of not less than $50,000 and not more than $5,000,000, and will not be prepayable prior to maturity. The commercial paper will be sold by Utah directly to a dealer in commercial paper; however, no commercial paper will be issued having a maturity of more than 60 days at an effective interest cost that exceeds the effective interest cost at which Utah could borrow from banks, unless Utah finds it impractical to do otherwise. No commission or fee will be payable in connection with the issue and sale of commercial paper. The dealer will reoffer and sell the commercial paper at a discount rate of ⅛ of 1 percent per annum less than the prevailing discount rate of Utah to not more than 200 customers of the dealer identified and designated in a list (non-public) prepared in advance by the dealer. No additions will be made to such list of customers without the approval of this Commission. No sale will be made to any purchasers unless and until such purchasers have received a current report of the financial condition of Utah. It is expected that such commercial paper will be held to maturity by the purchasers, but, if any such purchaser wishes to resell prior to maturity, the dealer will repurchase the paper for resale to others on said list of customers.

Utah requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. Utah states that the proposed commercial paper notes will have a maturity of nine months or less, that current rates for commercial paper for such prime borrowers as Utah are published daily in financial publications and that generally the effective interest cost thereon will not exceed the effective interest for borrowing from commercial banks. Utah also requests authority to file certificates under rule 24 on a quarterly basis with respect to the issue and sale of notes hereafter consummated pursuant to this proceeding.

Expenses to be incurred in connection with the proposed transaction are estimated to be less than $3,000. Utah states that the Idaho Public Utilities Commission has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 12, 1973 request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-22783 Filed 10-25-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Notice of Disaster Loan Area 1018]

MASSACHUSETTS

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Massachusetts as a major disaster area following a fire beginning on or about October 14, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from fire victims in Chelsea, Suffolk County, Massachusetts.

Applications may be filed at the:

Small Business Administration
Regional Office
150 Causeway Street, 10th floor
Boston, Massachusetts 02203

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement must be filed not later than December 17, 1973.

Dated October 17, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.73-22775 Filed 10-25-73;8:45 am]

[License No. 03/03-5114]

MODEDCO INVESTMENT CO.

Notice of Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that MODEDCO Investment Company (MODEDCO), Suite 110, 1325 Massachusetts Avenue NW., Washington, D.C. 20005, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application, pursuant to 13 CFR 107.1004 (1973), for approval of a conflict of interest transaction.

MODEDCO was licensed by the Small Business Administration (SBA) on March 5, 1973. Its sole stockholder is Model Cities Economic Development Corporation, located at the same address as the licensee and operating as a nonprofit corporation funded by Model Cities grants.

On July 6, 1973, the licensee issued its commitment to purchase a $150,000 subordinated debenture of Potomac Service Company (Potomac). The sole stockholder and president of Potomac is Mr. Arthur Blount, Jr.

The transaction falls within the purview of 13 CFR 107.1004 (1973) by reason of the fact that Mr. Blount, up until about June 30, 1973, was Executive Vice President of Model Cities Economic Development Corporation, MODEDCO's parent, and therefore is an associate of the licensee. Such financing requires an exemption pursuant to 13 CFR 107.1004 (b)(1).

The financing provided by the licensee was to be used by Potomac to own and operate Manhattan Laundry, located at 1326 Florida Avenue NW., Washington, D.C. The $150,000 investment is in the form of a ten year subordinated debenture bearing interest at the rate of nine and one-half percent per annum. The debenture is convertible into forty-nine percent of Potomac's common stock with the price per share to be the book value at the time of conversion. Notice is further given that any interested person may submit to SBA written comments, no later than 15 days from the date of publication of this notice, on the proposed financing. Any such communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

Absent any adverse comments and upon full consideration of all pertinent facts, SBA intends to approve the financing *nunc pro tunc*.

A copy of this notice shall be published by the licensee in a newspaper of general circulation in Washington, D.C.

Dated October 18, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.73-22777 Filed 10-25-73;8:45 am]

[Notice of Disaster Loan Area 1017]

OKLAHOMA

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Oklahoma as a major disaster area following severe storms and flooding beginning on or about October 10, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following Counties: Garfield, Grant, Kay, Kingfisher and Noble.

Applications may be filed at the:

Small Business Administration
District Office
30 North Hudson
Oklahoma City, Oklahoma 73102

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement must be filed not later than December 13, 1973.

Dated October 17, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc. 73-22776 Filed 10-25-73;8:45 am]

TARIFF COMMISSION

[TEA-W-207]

CRITERION FOOTWEAR, INC.

Amendment of Scope of Investigation Regarding Workers' Petition for Determination

On September 10, 1973, the U.S. Tariff Commission published notice in the FEDERAL REGISTER (38 FR 24,689-90) of the institution under section 301(c)(2) of the Trade Expansion Act of 1962 on behalf of the former workers of Criterion Footwear, Inc., Brooklyn, New York, to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women and misses (of the types provided for in items 700.43, 700.45, 700.55, and 700.60 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

On October 19, 1973, the Commission amended the scope of this investigation, pursuant to its authority under section 403(a) of the said act, to include, in addition, articles like or directly competitive with footwear for women and misses (of the types provided for in items 700.32 and 700.70 of the Tariff Schedules of the United States) produced by said firm.

Issued October 23, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-22796 Filed 10-25-73;8:45 am]

[AA1921-127]

ELEMENTAL SULFUR FROM CANADA

Determination of Likelihood of Injury

OCTOBER 19, 1973.

On July 20, 1973, the Tariff Commission received advice from the Treasury Department that elemental sulphur (also spelled sulfur) from Canada is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-127 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held September 25-27 and October 1, 1973. Notice of the investigation and hearing was published in the FEDERAL REGISTER of July 31, 1973 (38 FR 20381).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined by a vote of 3 to 2 [1] that an industry in the United States is likely to be injured by reason of the importation of elemental sulfur from Canada [2] that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF CHAIRMAN BEDELL, VICE CHAIRMAN PARKER, AND COMMISSIONER MOORE

In our opinion, an industry in the United States is likely to be injured by reason of the importation of elemental sulfur from Canada which is being, or is likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. In making our determination we have considered the industry to consist of those domestic facilities of U.S. producers devoted to the mining and recovery of sulfur. Sulfur mined by the Frasch hot-water mining process (Frasch sulfur) is produced by five companies at 12 sites in Texas and Louisiana. Sulfur is recovered from natural gas and crude petroleum by about 55 companies at 115 plants in 25 States.

The Commission's investigation has revealed that the LTFV sales of Canadian sulfur and the likelihood of future LTFV sales have contributed to the general depression of prices and to market

[1] Chairman Bedell, Vice Chairman Parker, and Commissioner Moore determined in the affirmative; Commissioners Young and Ablondi determined in the negative. Commissioner Leonard did not participate in the decision.

[2] The finding of Chairman Bedell, Vice Chairman Parker, and Commissioner Moore does not apply to imports of sulfur produced and sold by Texasgulf, Inc. and Canadian Occidental Petroleum, Ltd., which were excluded by the Treasury Department from its determination of sales at less than fair value (38 FR 19844).

disruption in the U.S. regional market where such merchandise has been concentrated. This depression and disruption has generated a pronounced threat to the economic well-being of the U.S. sulfur-producing industry.

THE STATE OF THE DOMESTIC INDUSTRY

In their decision in an investigation regarding elemental sulfur from Mexico in May 1972, all Commissioners agreed that "the market for sulfur is currently glutted and prospects are for still additional amounts to enter the market." and that "the U.S. sulfur industry is clearly undergoing a transition of far-reaching consequences, and one in which the Frasch-sulfur producers are the most vulnerable."[1] Commissioners Leonard and Young, who commented in detail on the economic conditions confronting the U.S. industry, concluded as follows:

> Thus, the stage is set for violent downward price competition: (1) A general oversupply; (2) the entry of a large number of sellers into the market place for whom sulfur is a coproduct, byproduct, or waste product; (3) a small number of sophisticated purchasers; (4) a homogeneous product; and (5) a general industry practice that each seller meet lower offers by competitors or forfeit the opportunity to sell the entire tonnage involved.[2]

Generally we find that these conditions still prevail.

Production of Canadian recovered sulfur increased to 6.8 million tons in 1972 from 4.7 million tons the year before. Such sulfur is recovered in molten form and is ready to be shipped, but Canadian producers are unable to find markets for most of it. Almost any "net back,"[3] even one as low as 75 cents per ton (roughly one-seventh of the current f.o.b. Alberta price), then, is preferable to adding current production to the vast stockpiles already dotting western Canada. These stockpiles alone contain enough sulfur to supply U.S. consumption for an entire year.

The oversupply of sulfur and the mechanics of the Canadian sulfur-recovery operations foreshadow two adverse consequences for U.S. sulfur producers. First, in the short run, the incentive exists for the Canadian producer to dispose of his recovered sulfur while it is still in the molten form to nearby U.S. markets, and to accept virtually any price which exceeds transportation costs; second, in the long run, the Canadian stockpiles retard price increases since the stockpiles become economically available as soon as U.S. market prices offset the additional melting costs.

THE PRIMARY MARKETPLACE-CONSIDERED

Because sulfur is a high-weight and low-value commodity, available transportation and freight-rate differentials tend to divide the United States into several regional market areas. Each region has certain unique characteristics but, to some extent, price activity in one domestic market area has an impact on prices in other domestic market areas. The Commission investigated each of the important areas and found that the bulk of Canadian sulfur enters the North Central States (known in the trade as the up-river market), penetrating as far south as rail rates permit, i.e., to St. Louis, Mo., and Cincinnati, Ohio. Our determination herein is based on a detailed examination of conditions prevailing in the up-river market, where some 10 to 15 percent of U.S. sulfur consumption occurs.

The net back price for Canadian recovered sulfur has for some years been significantly less than the net back for U.S. Frasch sulfur producers. Not all Canadian sulfur was found to be sold at LTFV, but not every sale of imported sulfur was investigated. Eighty percent of the LTFV sales which occurred during the period of investigation, like imports of Canadian sulfur in general, were concentrated in the up-river market.

PRICE DEPRESSION AND SUPPRESSION

A comparison of net backs for U.S. Frasch sulfur sold in each of the major U.S. market areas indicates that net backs on sales in the up-river market have been lower than those in other market areas. In 1972, for example, net backs in the up-river market area were about $4 per ton less than in the western gulf market area. Since the largest shipments of U.S. recovered sulfur center in the western gulf area, we are of the opinion that it was not competition with U.S. recovered sulfur that depressed returns in the up-river market, but rather Canadian sulfur.

We believe, based on evidence available to the Commission, that during the last 4 years price leadership in the up-river market generally rested with one or more sellers of Canadian sulfur. For example, three of the sellers on which data were collected were later identified by the Department of the Treasury as having sold at LTFV during the period of fair value comparisons. Also, in 1971 the lowest price to an important buyer in the Detroit/Kalamazoo area, and in 1972 the lowest price to an important customer in Chicago, were quoted by a supplier with access to substantial quantities of Canadian recovered sulfur. In the first instance the price quoted was nearly $3 per ton less than that of U.S. Frasch sulfur sold to the same customer, and in the other, $1 per ton less than the price of U.S. recovered sulfur sold to the same customer. Furthermore, the Canadian sulfur, which was then imported and sold at less than fair value, permitted the seller to fulfill his contract. Without resort to the Canadian supply, the tonnage would have been furnished by a domestic sulfur producer.

MARKET PENETRATION

Market penetration by the class or kind of merchandise determined by the Department of the Treasury to be sold at LTFV has traditionally been cited as evidence of injury in antidumping cases. In cases involving sulfur, however, the market penetration test is less significant since the "meet or release" clauses prevalent in sulfur purchase contracts may be triggered by competing offers, thereby depressing general price levels without excessive quantities of LTFV imports actually entering. But, in any case, since 1968 Canadian sulfur has supplied about 10 percent of total U.S. consumption. In the up-river market, it has accounted for about 50 percent of consumption. Assuming that the share of total sales made at LTFV disclosed by Treasury's sample is representative of recent sulfur imports from Canada, LTFV sales amount to almost 8 percent of sulfur consumed in the up-river area. Such market penetration, when viewed in the light of the special price sensitivity now characteristic of the sulfur market and the potential threat of the spread of LTFV sales, creates a posture of peril for U.S. producers. This threat has already been manifested in the closing of one of the largest barge terminals used to store and distribute sulfur to up-river customers.

CONCLUSION

The sale of LTFV sulfur from Canada is a significant factor contributing to price depression and market instability in the United States. The fact that the U.S. industry may be faced with difficulties apart from those associated with LTFV imports does not obscure the significant causal connection between the specific injury manifestations outlined above showing the likelihood of future injury, and the LTFV imports. Accordingly, we determine that, within the meaning of the Antidumping Act, 1921, as amended, an industry is likely to be injured by reason of the importation of sulfur from Canada that is being, or is likely to be, sold at less than fair value.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF COMMISSIONERS YOUNG, ABLONDI

In our opinion no industry in the United States is being injured or is likely to be injured by reason of the importation of elemental sulfur from Canada which is being sold at less than fair value (LTFV) within the meaning of the Antidumping Act of 1921, as amended. Our negative opinion is based on the lack of the necessary causal connection between the continued depressed economic conditions existing in the U.S. sulfur industry and the inconsequential and isolated sales of Canadian sulfur at LTFV. Evidence developed in this investigation indicates that the world oversupply noted in Investigation No. AA1921-92, *Elemental Sulfur From Mexico*, continues.

EXTENT OF LTFV SALES

This case requires comparison with the Commission's 1972 investigation of elemental sulfur, previously cited. First, the tonnage found sold at LTFV was smaller (15 percent in this case contrasted with 98 percent in the Mexican case), both in absolute terms and as a percent of total imports of such merchandise from the country involved. On an average dol-

[1] *Elemental Sulfur From Mexico*, Investigation No. AA1921-92, TC Publication 484, pp. 4 and 10.

[2] Ibid., p. 11.

[3] In sulfur trade terminology, "net back" refers to the actual return accruing to a producer, at the point of production after all distribution and transportation costs have been deducted from the delivered price.

lar-per-ton basis, the margins[1] found in LTFV sales of Canadian sulfur were less than one-third of those found in the Mexican investigation. While Mexican sulfur was imported by ocean tankers and entered predominantly at Tampa, Fla., and a few east coast ports. Canadian sulfur is shipped to the United States by rail and over 70 percent is sold in a ten-State midwest area (referred to in the trade as the up-river market). Finally, in the Mexican case, the two exporters of sulfur to the United States could not have been unaware that the home market price, which in effect had been set by the Government, had been unchanged since 1955, while the price of sulfur exported to the United States varied extensively and trended down sharply during the period 1969–71. In the instant case the large number of sellers of Canadian sulfur were not guided by Government posted prices as were exporters in the Mexican case, and therefore, LTFV sales appear to have been largely unintentional, certainly not predatory.

If any injury to U.S. producers "by reason of" LTFV sales exists, it would logically be found in the up-river market. Similarly, if no injury "by reason of" LTFV sales exists in the up-river market, it is virtually certain that it would not be found in any other market or the national market as a whole. The Antidumping Act requires that causation between injury and sales at less than fair value must be at least be identifiable. This causation is not present in this case.

MARKET PENETRATION

During 1970–72, estimated sulfur consumption in the up-river market declined from 1,076 thousand tons in 1970 to 1,014 thousand tons in 1971, then rose to 1,202 thousand tons in 1972. During this period, Canadian sulfur's share of this market declined from about two-thirds in 1970 to one-half in 1972, whereas the share held by U.S. recovered sulfur rose from one-tenth in 1970 to one-fifth in 1972. Frasch sulfur maintained its one-quarter share of this market. Therefore, there was no overall displacement of domestic sulfur in the up-river market as the result of LTFV sales.

PRICE DEPRESSION

The price depression which has occurred in the up-river market is caused by an oversupply, including a significant Canadian portion thereof, not by sales of Canadian sulfur at LTFV, which were limited and scattered. Only about 15 percent of the tonnage of Canadian sulfur sampled by Treasury was found to be sold at LTFV. Those margins which were found to exist averaged less than $2 per ton. In contrast, prices in the up-river market declined from about $50 in mid-1968 to about $28 in early 1970, then reached a low of $27 in January-June 1973. This decline is of the same magnitude as price declines in other regional markets (e.g., Tampa and the western gulf) where no Canadian sulfur was sold. Based on information obtained from the investigation, the LTFV sales of Canadian sulfur did not undersell domestic recovered sulfur in the up-river market during the period of Treasury's investigation, except in one peculiar instance.[1] Since 1971, the evidence available to the Commission indicates that underselling "by reason of" LTFV sales has not occurred. Finally, it does not appear that the small tonnage of LTFV imports in the already oversupplied up-river market has had a tendency to further depress prices.

LIKELIHOOD OF INJURY

With regard to a likelihood of injury, as noted above only small quantities of LTFV sulfur were sold in the up-river market, and at least part of these sales were accidentally at LTFV. Moreover, there is an increasing tendency on the part of Canadian producers to quote sulfur prices "f.o.b. Alberta," both in the home market and the United States without discrimination. Selling on this basis to customers both in the home market and in the United States should eliminate sales at LTFV. Furthermore, sulfur is a high-weight low-value commodity and transportation cost accounts for a significant component of its delivered cost making it unlikely that Canadian sulfur will find additional markets in the United States.

CONCLUSION

All of the evidence secured in this investigation belies a finding that an industry is being or is likely to be injured by reason of the importation of sulfur from Canada at less than fair value.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-22794 Filed 10-25-73;8:45 am]

[TEA-W-215]

MOXEES SHOE CO.

Notice of Investigation Regarding Workers' Petition for Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers and former workers of the Moxees Shoe Corp., Auburn, Maine, a wholly owned subsidiary of Multivisions Corporation, Bellows Falls, Vt., the United States Tariff Commission, on October 19, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.20, 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before November 5, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued October 23, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-22795 Filed 10-25-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Notice of Meeting

Notice is given that the Advisory Committee on Construction Safety and Health, established under section 107(e) of the Contract Work Hours & Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (20 U.S.C. 656) will meet on Wednesday, November 7, and Thursday, November 8, 1973, starting at 9 a.m. in Conference Room B, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C. The meeting shall be open to the public.

The Committee will consider the proposed Rope Guided Hoists Standard and Particular Rules Modifications. The agenda also provides for program orientation on Ground Fault Circuit Interrupters and Safety Training in the States.

Written data, views, or arguments concerning the subject to be considered may be filed, together with 20 copies thereof, with the committee's Executive Secretary by November 2, 1973. Such submissions may also be filed with the Executive Secretary at the meeting. Any such submissions will be provided to the members of the committee and will be included in the record of the meeting.

Persons wishing to orally address the committee at the meeting should submit a written request to be heard, together with 20 copies thereof, to the Executive Secretary no later than November 2, 1973. The request must contain a short summary of the intended presentation and an estimate of the amount of time that will be needed.

Communications may be mailed to:

[1] The term "margin" connotes the difference between the Canadian market price (f.o.b. plant) and the price for which the imported product was sold (f.o.b. plant) to an arm's length buyer, or the equivalent, for export to the United States.

[1] In one instance the price of Canadian sulfur quoted was nearly $1 per ton less than the price of U.S. recovered sulfur sold to the same customer. The Canadian sulfur, which was then imported and sold at less than fair value, enabled the seller to fulfill his contract.

Standards Advisory Committees, OSHA-OSMC Railway Labor Building—Room 509
U.S. Department of Labor, Washington, D.C. 20210

Signed at Washington, D.C., this 18th day of October 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc.73-22870 Filed 10-25-73;8:45 am]

[V-73-31]

AMERON INC., ET AL.

Applications for Variances; Grant of Interim Orders

I. *Ameron Inc.—Notice of application.* Notice is hereby given that Ameron Inc., 400 S. Atlantic Blvd., Monterey Park, California 91754, has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1904.11 for a variance, and an interim order pending a decision on the application for a variance, from the requirements of 29 CFR 1910.180(h)(3)(v), dealing with the operation of cranes.

The address of the place of employment affected by the application is Navajo Project, P.O. Box 506, Bloomfield, New Mexico 87413.

The applicant certifies that the employees affected by the application have been notified of the application by its giving a copy of it to the authorized employee representative, and by its posting a copy at the places where notices to employees are normally placed. Employees have also been notified of their right to petition the Assistant Secretary of Labor for a hearing.

Section 1910.180(h)(3)(v) provides that "no hoisting, lowering, swinging, or travelling shall be done while anyone is on the load or hook." The applicant uses a wagon crane to move metal forms for the vertical pouring of concrete pipes. The forms are hooked to, and unhooked from, a platform by an employee riding in a safety cage, which is a component part of the platform suspended from the crane. The cage is constructed with railings around the perimeter, and the employee is seated in the middle of the cage and fastened in with a safety belt, so as to protect him from being struck by objects, and from falling off the platform.

The employee is belted in while the cage is in motion. When the load stops, the employee unfastens his safety belt, and hooks or unhooks the slings by which the forms are carried. The employee is within full view of the crane operator at all times.

The cage is attached to the crane with a safety device which can only be released while the cage is on the ground. The air cylinders which cause the unhooking will not function when a load is being supported. This device is fastened to the crane by the load block being shackled to the platform. The cage has a tensile safety factor of 5 to 1. A combination of these devices insures that no accidental unhooking will occur.

After the concrete has been poured and cured, gates are opened on the form to separate the form from the concrete pipe. The employee in the safety cage hooks the form to the platform so the form can be stripped away from the pipe.

The applicant further indicates that the wagon crane is equipped with a load indicating device. One of the purposes of the load indicator is to allow the crane operator to be aware of any excess pull during the stripping of a form from a pipe. If an excess pull is indicated during the stripping of the form, the cage is unhooked from the form. The cage is moved away and employees reactivate the gates to cause the form to separate more fully from the pipe. After this is done, the cage is brought back and the form is hooked onto the platform and removed from the pipe. This procedure is to ensure that rated loads are not exceeded.

The applicant argues that its use of the wagon crane is safe because of the safety devices mentioned. The applicant also states that since the implementation of this method in 1968, no accidents have occurred.

For further information, interested persons are referred to a copy of the application which will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Room 508, Washington, D.C. 20210, and at the following Regional and Area Offices:

REGIONAL OFFICE

U.S. Department of Labor
Occupational Safety and Health Administration
7th Floor—Texaco Building
1512 Commerce Street
Dallas, Texas 75201

AREA OFFICE

U.S. Department of Labor
Occupational Safety and Health Administration
Room 421, Federal Building
1205 Texas Avenue
Lubbock, Texas 79401

Interim Order. It appears from the application for a variance and interim order, filed by Ameron Inc., that its method of removing forms from concrete pipe, as set forth in its application, provides employment and a place of employment as safe as that intended by 29 CFR 1910.180(h)(3)(v). It further appears that an interim order is necessary, pending a decision on the application, in order to prevent undue hardship to the applicant and its employees. Therefore, it is ordered pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c) that Ameron Inc. be, and it is hereby, authorized to continue using its method of removing forms from concrete pipe, notwithstanding the prohibition in 29 CFR 1910.180(h)(3)(v).

The applicant shall give notice to all affected employees of this interim order by the same means required to inform them of its application for a variance.

Effective date.—The interim order shall be effective on October 26, 1973, and shall remain in effect until a decision is rendered on the application for a variance.

II. *Allison Steel Manufacturing Company, Et Al.—Notice of applications.* Notice is hereby given that the following companies have made applications pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1910.11 for variances, and interim orders pending a decision on the applications for variances, from the requirements of 29 CFR 1926.451(a)(4), (5), and (10) dealing with scaffolding:

Allison Steel Manufacturing Co.
P.O. Box 6598
Pheonix, Arizona 85005

Chattanooga Boiler & Tank Co.
1011 East Main Street
Chattanooga, Tennessee 37401

Fisher Tank & Welding Co.
Third and Booth Streets
Chester, Pennsylvania 19013

Nooter Corporation
1400 South Third Street
St. Louis, Missouri 63166

Wyatt Division
U.S. Industries
P.O. Box 3052
Houston, Texas 77001

Brown Minneapolis Tank & Fabricating Company
P.O. Box 3670
St. Paul, Minnesota 55165

Chicago Bridge & Iron Co.
901 West 22d Street
Oak Brook, Illinois 60521

Graver Tank & Mfg. Co.
4809 Tod Avenue
East Chicago, Indiana 46312

Universal Tank & Iron Works
11221 W. Rockville Road
Indianapolis, Indiana 46231

Pittsburgh-Des Moine Steel Co.
Neville Island
Pittsburgh, Pennsylvania 15225

The places of employment affected by these applications are the construction sites where the applicants are engaged in construction operations.

The applicants certify that the employees affected by their applications have been notified by their posting statements describing the applications where notices to employees are normally posted. These notices also inform the employees of their right to petition the Assistant Secretary of Labor for a hearing.

In addition, the applicants have forwarded a copy of the statement to the president of the International Brotherhood of Boilerworkers, Iron Shipbuilders, Blacksmiths, Forgers, and Helpers Union.

The applicants contend that they are providing employment and places of employment as safe as those which would prevail if they complied with 29 CFR 1926.451(a), (4), (5), and (10). Section 1926.451(a)(4) and (5) reads as follows:

"(4) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beam scaffolding and floats (see paragraphs (p) and (w) of this section). Scaffolds 4 to 10 feet in height,

having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails installed on all open sides and ends of the platform.

(5) Guardrails shall be 2 x 4 inches, or the equivalent, approximately 42 inches high, with a midrail, when required. Supports shall be at intervals not to exceed 8 feet. Toeboards shall be a minimum of 4 inches in height."

The applicants state that the scaffolds they use in building tanks are mobile and are frequently raised as the tanks rise in order to position the next set of steel plates. The scaffolds do not have toeboards. Tools are never left on the scaffolding, but are placed in well-designed "loose tool" containers provided for that purpose. The applicants add that because a scaffold must be moved frequently, it would be more hazardous to constantly remove and replace toeboards. A taut wire is also installed midway between the innermost plank face of the scaffold platform and the tank face. The applicants also propose that the area directly below and in close proximity to the scaffold be roped off, and that only employees and tools currently being used by employees, be permitted on the scaffold. The applicants contend that because of these devices and procedures, their scaffolds are as safe as they would be if toeboards were used.

The applicants also propose to use 10.5 feet spans on their scaffolds although § 1926.451(a)(10) allows a maximum span of 10 feet. The planks proposed to be used are rough full-dimensioned 2" x 12" x 12' planks of Douglas Fir or Southern Yellow Pine of Select Structural Grade. The Douglas Fir has a fiber stress of 1,900 and a modulus of elasticity of 1,900,000, while the Southern Yellow Pine has a 2,500 fiber stress and a modulus of elasticity of 2,000,000. The applicants contend that the scaffolds they are using are safe, even though the span is one-half foot longer than the maximum length allowed, because of the increased strength of the wood.

For further information, interested persons are referred to a copy of the application which will be made available for inspection and copying, upon request, at the Office of Standards, Railway Labor Building, 400 First Street NW., Room 508, Washington, D.C. 20210 and at the following Regional and Area Offices:

REGIONAL OFFICES

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Plaza Building, 3535 Market Street, Room 15220, Philadelphia, Pa. 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, 300 South Wacker Drive, Room 1201, Chicago, Ill. 60606.

U.S. Department of Labor, Occupational Safety and Health Administration, 1375 Peachtree Street NE., Suite 587, Atlanta, Ga. 30309.

U.S. Department of Labor, Occupational Safety and Health Administration, 9470 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102.

U.S. Department of Labor, Occupational Safety and Health Administration, 823 Walnut Street, Waltower Building, Room 300, Kansas City, Mo. 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, 1512 Commerce Street, 7th Floor, Texaco Building, Dallas, Tex. 75201.

AREA OFFICES

U.S. Department of Labor, Occupational Safety and Health Administration, 1317 Filbert Street, Suite 1010, Philadelphia, Pa. 19107.

U.S. Department of Labor, Occupational Safety and Health Administration, 110 South Fourth Street, Room 437, Minneapolis, Minn. 55401.

U.S. Department of Labor, Occupational Safety and Health Administration, U.S. Post Office and Courthouse, Room 423, 46 East Ohio Street, Indianapolis, Ind. 46204.

U.S. Department of Labor, Occupational Safety and Health Administration, 307 Central National Bank Building, Houston, Tex. 77002.

U.S. Department of Labor, Occupational Safety and Health Administration, Suite 910, Amerco Towers, 2721 North Central Avenue, Phoenix, Ariz. 85004.

U.S. Department of Labor, Occupational Safety and Health Administration, 1600 Hayes Street, Suite 302, Nashville, Tenn. 37203.

U.S. Department of Labor, Occupational Safety and Health Administration, 210 North 12th Boulevard, Room 554, St. Louis, Mo. 63101.

Interim orders. It appears from the applications for variances and interim orders filed by the companies named in this notice, that the proposed scaffolding described in their applications provide employment and places of employment as safe as those which would prevail if the applicants were to comply fully with 29 CFR 1926.451(a) (4), (5), and (10). It further appears that interim orders are necessary, pending a decision on the applications, in order to prevent undue hardship to the applicants and their employees. Therefore, it is ordered, pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1910.11(c), that the companies be, and they are hereby, authorized to use scaffolds in accordance with the following conditions, in lieu of complying with the toeboard and span requirements in 29 CFR 1926.451(a) (4), (5), and (10):

(a) The applicants shall use well-designed loose tool containers supported from the tank plates. The area below the scaffold shall be roped off, and only employees and tools currently being used shall be permitted on the scaffold;

(b) A taut wire rope shall be installed between the innermost side of the scaffold planks supported on the scaffold brackets midway between the inner edge of the scaffold surface and the tank shell, so as to evenly divide the space. The space between the shell and scaffold plank edge shall not exceed 12 inches;

(c) Brackets, posts, supports and rails for the outer guardrail and midrail shall be used, and shall be of equivalent strength and stability as those required for the 8-foot span of 2" x 4" wood rails by 29 CFR 1926.451 (a)(5);

(d) Scaffold planks of rough full-dimensioned 2" x 12" x 12' Douglas Fir or Southern Yellow Pine of Select Structural Grade shall be used. The Douglas Fir shall have at least a 1900 fiber stress and 1,900,000 modulus of elasticity, while the Yellow Pine shall have at least a 2500 fiber stress and 2,000,000 modulus of elasticity;

(e) Tank scaffold brackets shall be spaced 10 feet 6 inches center to center for this type of tank work.

Each applicant shall give notice to all its affected employees of the interim order by the same means required to inform them of its application for a variance.

Effective date.—These interim orders shall be effective on October 26, 1973, and shall remain in effect until a decision is rendered on the applications for variances.

III. *Bethlehem Steel Corporation—Notice of application.* Notice is hereby given that Bethlehem Steel Corporation, 500 Martin Tower, Bethlehem, Pennsylvania has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the requirements in 29 CFR 1910.179(e)(4), concerning rail sweeps on overhead cranes.

The addresses of the places of employment that will be affected by the application are:

Newark Toolhouse
9 Albert Avenue
Newark, New Jersey 07105

Worcester Buffalo Tank
Post Office Box 197
Worcester, Massachusetts 01606

The applicant certifies that employees affected by the application have been notified by its giving a copy of the application to the authorized employee representative, and by its posting copies at places where notices to employees are normally placed. Employees have also been informed of their right to petition the Assistant Secretary of Labor for a hearing.

Regarding the merits of the application, the applicant states that the temporary rail stops it presently employs on the runway rails of its overhead cranes, are incompatible with the requirements of § 1910.179(e)(4) which provides that "Bridge trucks shall be equipped with sweeps which extend below the top of the rail and project in front of the truck wheels."

The applicant states that it uses temporary rail stops to prevent one crane from rolling into and striking another which is out of operation and under repair.

The applicant believes that rail sweeps would expose repair crews to extra hazards in removing and replacing them, that they would inhibit inspection of trackwheels as required by § 1910.179(j), and that they would be simply another item that could work loose and fall, possibly on an employee. The applicant also states that present safety procedures prohibit the presence of anyone on the crane runway when a crane is in operation. Since the purpose behind the rail sweeps is to protect employees from being

hit by a moving crane, the above safety rule would, it is contended, accomplish the same purpose.

A copy of the application will be made available for inspection and copying, upon request, at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Room 508, Washington, D.C. 20210, and at the following Regional and Area Offices:

REGIONAL OFFICES

U.S. Department of Labor
Occupational Safety and Health Administration
Fourth Floor
18 Oliver Street
Boston, Massachusetts 02110

U.S. Department of Labor
Occupational Safety and Health Administration
1515 Broadway (1 Astor Plaza)
New York, New York 10036

AREA OFFICES

U.S. Department of Labor
Occupational Safety and Health Administration
Custom House Building
State Street
Boston, Massachusetts 02109

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Office Building
970 Broad Street—Room 635
Newark, New Jersey 07102

Interim order. It appears from the application for a variance and interim order, filed by Bethlehem Steel Corporation, that the means and practices described in the application provide employment and places of employment as safe as those which would prevail if the applicant were to comply with 29 CFR 1910.179(e)(4). It further appears that an interim order is necessary, pending a decision on the application, in order to prevent undue hardship to the applicant and to its employees. Therefore, it is ordered, pursuant to the authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and § 1905.11(c), that Bethlehem Steel Corporation be, and it is hereby, authorized to continue using the means and practices set forth in its application, in lieu of complying with 29 CFR 1910.179(e)(4).

Effective date.—This interim order shall be effective on October 26, 1973, and shall remain in effect until a decision is rendered on the application for a variance.

IV. All interested persons, including employers and employees who believe they would be affected by the grant or denial of any of the above applications for variances, are invited to submit written data, views, and arguments regarding the pertinent application no later than November 26, 1973. In addition, employers and employees who believe they would be affected by the grant or denial of any of these variances, may request a hearing on the relevant application no later than November 26, 1973, in conformity with 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate and must be addressed to the Office of Standards, U.S. Department of Labor, Railway Labor Building, Room 504, 400 First Street NW., Room 508, Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of October 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-22868 Filed 10-25-73;8:45 am]

[V-72-4, V-72-6, V-73-9]

BOYERTOWN PLANING MILL COMPANY ET AL.

Grant of Variances

I. *Boyertown Planing Mill.*—A. *Background.* Boyertown Planing Mill Company, Boyertown, Pennsylvania 19512, made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) and 29 CFR 1905.11 for a variance from the safety and health standard prescribed in 29 CFR 1910.141(c)(1)(vii), which requires that lavatories be provided in, or adjacent to, every toilet room. Notice of the application was published in the FEDERAL REGISTER on December 21, 1972 (37 FR 28228). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No written comments and no request for a hearing have been received.

B. *Facts.* The applicant's washing facilities are located approximately forty feet from the toilet facilities, rather than in or adjacent to them as required by 29 CFR 1910.141(c)(1)(vii).

Employees who work in the yard area must pass the washing facility as they come from, or go to, the toilet room. The area between the two facilities is unobstructed and there is free passage at all times. All other employees work in the room immediately between the toilet and washing facilities, and can conveniently make use of both facilities. The toilet room is equipped with a swinging door which requires no handling.

The applicant has stated that it is impossible to locate lavatories in the toilet room, impracticable to build them adjacent to the toilet room and that an adjacent location would be less convenient to the employees than the present location.

C. Decision. 29 CFR 1910.141(c)(1)(vii) states that lavatories must be located in or adjacent to every toilet room. The purpose of this requirement is to encourage the use of the lavatories in connection with the use of toilet rooms. The applicant has shown that the distance between its toilet room and its washing facilities is not excessive, there is free passage at all times, and that the employees must pass the washing facilities on their way to or from the toilet rooms. Under these conditions, it is decided that applicant's lavatory location provides employment and a place of employment which is as safe and healthful as it would be if it complied fully with 29 CFR 1910.141(c)(1)(vii).

D. Order—Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and Secretary of Labor's Order No. 12-71 (36 FR 8754), it is ordered, that Boyertown Planing Mill Company be, and it is hereby, authorized to continue to use the present washing facility as described above, in lieu of providing a washing facility in or adjacent to the toilet room. As soon as possible, Boyertown Planing Mill Company shall give notice to affected employees of this order by the same means required to be used to inform them of the application for variance.

II. General Motors Corporation—A. *Background.* General Motors Corporation, 3044 West Grand Boulevard, Detroit, Michigan 94565, made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) and 29 CFR 1905.11 for a variance from the safety and health standard prescribed in 29 CFR 1910.252(c)(2)(viii). The standard requires that "on large machines, four safety pins with plugs and receptacles (one in each corner) shall be provided so that when safety pins are removed and inserted in the ram or platen, the press becomes inoperative."

The facilities affected by this application are:

Buick Motor Division
1051 East Hamilton Avenue
Flint, Michigan 48550

Chevrolet-Cleveland, Stump Road and Brookpark, Cleveland, Ohio 44130.

Chevrolet-Flint Assembly, Van Slyke and Atherton Roads, Flint, Mich. 48551.

Fisher-Cleveland, East 140th and Colt Road, Cleveland, Ohio 44110.

Fisher-Detroit Fort Street, 6307 West Fort Street, Detroit, Mich. 48209.

Fisher-Flint Coldwater Road, Coldwater Road, Flint, Mich. 48559.

Fisher-Flint No. 1, 4300 South Saginaw Street, Flint, Mich. 48557.

Fisher-Marion, 2400 West Second Street, Marion, Ind. 46953.

GMAD-Arlington, 2525 East Abram Street, Arlington, Tex. 76010.

GMAD-Baltimore, Post Office Box 148, Baltimore, Md. 21203.

GMAD-Doraville, 3900 Motors Industrial Way, Doraville, Ga. 30340.

GMAD-Fairfax, 100 Kindelberger Road, Kansas City, Kans. 66115.

GMAD-Framingham, Western Avenue, Framingham, Mass. 01701.

GMAD-Fremont, 45500 Fremont Boulevard, Fremont, Calif. 94537.

Fisher-Grand Blanc, Grand Blanc, Mich. 48439

Fisher-Grand Rapids No. 1, 300-36th Street SW., Grand Rapids, Mich. 49508.

Fisher-Hamilton, 4400 Dixie Highway, Hamilton, Ohio 45012.

Fisher-Kalamazoo, 5200 East Cork Street, Kalamazoo, Mich. 49002.

Fisher-Lordstown Fab., Hallock Young Road, Lordstown, Ohio 44482.

Fisher-Mansfield, 2525 West Fourth Street Road, Mansfield, Ohio 44906.

GMAD-Saint Louis, 3809 Union Boulevard, Saint Louis, Mo. 63115.

GMAD-South Gate, 2700 Tweedy Boulevard, South Gate, Calif. 90280.

GMAD-Tarrytown, Beck Avenue, North Tarrytown, N.Y. 10591.

GMAD-Van Nuys, 8000 Van Nuys Boulevard, Van Nuys, Calif. 91409.

GMAD-Willow Run, Post Office Box F, Ypsilanti, Mich. 48197.

GMAD-Janesville, Post Office Box 629, Janesville, Wis. 53545.

GMAD-Lakewood, Post Office Box 4605, Atlanta, Ga. 30302.

GMAD-Leeds, 6817 East 37th Street, Kansas City, Mo. 64129.

GMAD-Linden, 1016 West Edgar Road, Linden, N.J. 07006.

GMAD-Lordstown, Post Office Box 1406, Warren, Ohio 45212.

GMAD-Norwood, Post Office Box 12171, Norwood, Ohio 45212.

GMAD-Wilmington, Post Office Box 1512, Wilmington, Del. 19899.

GMC Truck & Coach Division, 660 South Boulevard, East Pontiac, Mich. 48011.

Oldsmobile Division, 1014 Townsend Street, Lansing, Mich. 48921.

Pontiac Motor Division, 196 Oakland Avenue, Pontiac, Mich. 48053.

Notice of the application for variance was published in the FEDERAL REGISTER on December 9, 1972 (37 FR 26370). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No written comments and no request for a hearing have been received.

B. Facts. The applicant states that it is currently using at the 35 facilities listed above, a specially developed safety device, referred to as "safety blocks," constructed of welded structural steel, and attached to a hinged, swing-in, mounting plate assembly, which is mounted directly to its welding press structure. Each welding press utilizes two of these safety blocks mounted in diametrically opposite corners of the press to block the heel posts of the press in the open position. The blocks are also electrically interlocked so that removal of the blocks from the stored position would also remove the power from the press and control circuits. Limit switches are used for interlocking the safety blocks with the press electrical circuit. The applicant applied for a variance to use the specially constructed safety blocks, in lieu of the "four safety pins with plugs and receptacles (one in each corner)" required by the standard.

C. Decision. 29 CFR 1910.252(c)(2)(viii) requires that on large machines, four safety pins with plugs and receptacles (one in each corner) shall be provided so that when pins are removed and inserted in the ram or platen, the press becomes inoperative. This is required to protect an employee performing maintenance inside the press from being injured by accidental closing of the platen.

The use of the specially designed safety blocks not only mechanically prevents the platen from accidental closure, but at the same time renders the machine completely inoperative by removing all power. It is decided that the applicant's use of its safety blocks provides employment and a place of employment which is as safe as it would be if the applicant complied with 29 CFR 1910.252(c)(2)(viii).

D. Order. Pursuant to authority in Section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and Secretary of Labor's Order No. 12–71 (36 FR 8754), it is ordered that General Motors Corporation be, and it is hereby, authorized to use its specially constructed safety blocks, in lieu of the four safety pins with plugs and receptacles required by 29 CFR 1910.252(c)(2)(viii).

As soon as possible, General Motors Corporation shall give notice to affected employees of this order by the same means required to be used to inform them of the application for variance.

III. General Motors Corporation—A. *Background.* General Motors Corporation, 3044 West Grand Boulevard, Detroit, Michigan 94565, made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) and 29 CFR 1905.11 for a variance from the safety and health standards prescribed in 29 CFR 1910.252(c)(3)(ii) and (iii), requiring the use of safety chains or cables and clevis for suspending portable welding machines and related equipment. The facility affected by the application is General Motors Assembly Division, Fairfax Plant, 100 Kindelberger Road, Kansas City, Kansas 66125. Notice of the application was published in the FEDERAL REGISTER on December 21, 1972 (37 FR 28227). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No written comments and no request for a hearing have been received.

B. Facts. The applicant states that it currently has two basic methods for supporting portable spotwelding transformers. In a "four point" method, the transformer assembly is suspended from and attached to the trolley assembly by four 2" x 2" x ¼" angle structural steel members, fastened by twelve ½" steel bolts. In a "two-point" method, the transformer is suspended from and attached to the trolley assembly by two pieces of 4" x ¼" flat bar stock, fastened by twelve ½" steel bolts.

The applicant has submitted results from a test conducted by an independent testing laboratory which show that the system can withstand a load up to 22,700 pounds. Since the weight of the transformer is 795 pounds, this provides a safety factor of 28 to 1.

C. Decision. 29 CFR 1910.252(c)(3)(ii) and (iii) require that portable welding equipment suspended from a trolley be equipped with safety chains or cables and clevis capable of supporting the shock load of the suspended equipment in the event of failure of any part of the supporting system. The applicant has submitted test results which show that its two-point and four-point support systems provide a safety factor that would be at least that that would be provided were the standard complied with. Thus, it is decided that applicant's support systems result in employment and a place of employment at least as safe and healthful as it would be if it complied with 29 CFR 1910.252(c)(3)(ii) and (iii).

D. Order. Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and Secretary of Labor's Order No. 12–71 (36 FR 8754), it is ordered that General Motors Corporation be, and it is hereby, authorized to continue to use its present methods for supporting portable spotwelding equipment, in lieu of using safety cables and clevis required by 29 CFR 1910.252(c)(3)(ii) and (iii).

As soon as possible, General Motors Corporation shall give notice to affected employees of this order by the same means required to be used to inform them of the application for variance.

IV. Morrison Grain Company, Inc.—A. Background. Morrison Grain Company, Inc., P.O. Box 648, Salina, Kansas 67401, made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) and 29 CFR 1905.11 for a variance from the safety and health standard prescribed in 29 CFR 1910.68(c)(1)(ii)(b), concerning the belt width of manlifts. Notice of the application was published in the FEDERAL REGISTER on February 8, 1973 (38 FR 3647). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. No written comments and no request for a hearing have been received.

B. Facts. The applicant has a manlift with a travel of 200 feet 10½ inches, and a belt width of 14 inches, rather than the 16 inch width required for belts with travel exceeding 150 feet, under 29 CFR 1910.68(c)(1)(ii)(b). The applicant has shown with the results of tests conducted by an independent testing laboratory that its present 14 inch wide belt has a minimum strength of 3,607 pounds per inch of width, or a total of 50,000 pounds for the entire width.

The applicant has also shown that its belt has a safety factor of over 23 to 1, which is a comparison of the 50,000 pound minimum strength of the belt to a 2,130 pound weight on the belt. The 2,130 pound weight is derived by adding the total belt weight (1,460 pounds) to the total weight caused by 200 pounds being put on each of the manlifts 14

steps (2,800 pounds), and dividing the resultant figure by one half.

The applicant's belt, though installed prior to the effective date of the standard exceeds the strength and safety factor specifications of ANSI A90.1–1969, which are required in 29 CFR 1910.68(b)(3) of all new belts installed after the effective date. The presently used belt has the minimum strength of 3,607 pounds per inch of width, greater than that required in Rule 200(c)(3) of ANSI A90.1–1969. In addition, the belt has a safety factor of over 23, which exceeds the safety factor of 6 required in Rule 206 of ANSI A90.1–1969.

C. Decision. It appears from the application for a variance that the difference between the 14-inch belt presently in use by the applicant and the 16-inch belt required under § 1910.68(c)(1)(ii)(b) has no significant bearing on the safety of the manlift. Accordingly, it is decided that the applicant's 14 inch manlift belt results in employment and a place of employment as safe and healthful as would the 16 inch belt required under 29 CFR 1910.68(c)(1)(ii)(b).

D. *Order.* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and Secretary of Labor's Order No. 12–71 (36 FR 8754), it is ordered that Morrison Grain Company, Inc. of Salina, Kansas be, and it is hereby, authorized to continue the use of the 14 inch wide manlift belt as described in its application, in lieu of complying with § 1910.68(c)(1)(ii)(b).

As soon as possible, Morrison Grain Company, Inc. shall give notice to affected employees of this order by the same means required to be used to inform them of the application for variance.

Effective date.—These orders shall become effective on October 26, 1973, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 23d day of October 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-22869 Filed 10-25-73;8:45 am]

[V-73-30]

GARDINIER, INC.

Notice of Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Gardinier, Inc., U.S. Phosphoric Products, P.O. Box 3269, Tampa, Florida 33601 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596), and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.179(b)(4) concerning wind indicators on gantry cranes.

The address of the place of employment that will be affected by the application is as follows:

Gardinier, Inc.
U.S. Phosphoric Products
P.O. Box 3269
Tampa, Florida 33601

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.179(b)(4) which requires that outdoor storage bridges of gantry cranes be equipped with wind indicating devices.

The applicant states that it operates 2 gantry cranes which are not equipped with wind indicating devices. Rather, the plant has two wind indicated devices with visual and automatic recording devices. One is located in the Shift Superintendent's office, with a back-up system in the Plant Superintendent's office. A shift superintendent is always on duty. He watches the wind indicators closely, monitors weather forecasts at least 3 times each shift, and keeps a written record of the weather conditions. When wind changes are anticipated, the wind indicators and weather forecasts are monitored continuously. Radio contact is maintained with all yard foremen by the Shift Superintendent.

The applicant further contends that it would be impossible to install wind indicating devices on the cranes and keep them operative since the cranes are located near molten sulphur pits and salt water. The corrosive conditions cause malfunctions in the devices.

A copy of the application will be made available for inspection and copying upon request at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Room 508, Washington, D.C. 20210, and at the following Regional and Area offices:

REGIONAL OFFICE

U.S. Department of Labor
Occupational Safety and Health Administration
1375 Peachtree Street NE.
Suite 587
Atlanta, Georgia 30309

AREA OFFICE

U.S. Department of Labor
Occupational Safety and Health Administration
Room 204, Bridge Building
3200 E. Oakland Park Blvd.
Ft. Lauderdale, Florida 33308

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than November 26, 1973. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than November 26, 1973, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Standards at the above address.

II. *Interim order.* It appears from the application for a variance and interim order, that an interim order is necessary to prevent undue hardship to the applicant pending a decision on the variance. Therefore, it is ordered, pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c) that Gardinier, Inc. be, and it is hereby, authorized to continue operating its gantry cranes without wind indicating devices while using the system described above.

Gardinier, Inc. shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of October 25, 1973, and shall remain in effect until a decision is rendered on the application for variance by Gardinier, Incorporated.

Signed at Washington, D.C., this 18th day of October, 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc.73-22871 Filed 10-25-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 272]

INVESTIGATION INTO LIMITATIONS OF CARRIER SERVICE ON C.O.D. AND FREIGHT—COLLECT SHIPMENTS

Order Extending Time for Filing Petitions for Reconsideration

Upon consideration of the record in the above-entitled proceeding, and the requests of certain parties for a postponement of the time for filing petitions for reconsideration to the report and order, (343 ICC 692) and a corresponding delay in the effective date of the regulations prescribed therein; and good cause appearing therefor:

It is ordered, That the time for filing petitions for reconsideration in this proceeding be, and it is hereby, extended to December 3, 1973.

It is further ordered, That the effective date of the order of July 16, 1973, in this proceeding, be, and it is hereby, indefinitely postponed subject to the conditions and understanding that respondents will not limit or eliminate from their services offered the public c.o.d. freight-collect, and order-notify services pending resolution of any petitions hereinafter filed in response to said order of July 16, 1973.

Dated at Washington, D.C., this 6th day of September 1973.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22832 Filed 10-25-73;8:45 am]

[Notice No. 370]

ASSIGNMENT OF HEARINGS

OCTOBER 23, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-77972 Sub 19, Merchants Truck Line, Inc., now being assigned hearing January 14, 1974 (1 week), at Memphis, Tenn., in a hearing room to be later designated.

MC 138227, Rodney H. Blackwell, d.b.a. Miss-Lou Truck Line, now being assigned February 4, 1974 (1 week), at Picayune, Miss., in a hearing room to be later designated.

FD 27040, Florida East Coast Railway Company Stock, now being assigned hearing November 26, 1973, at the Offices of the Interstate Commerce Commission.

No. 35265, Anglo-Canadian Pulp and Paper Mills, Limited, et al v. Aberdeen and Rockfish Railroad Company, et al, now assigned October 30, 1973, at Washington, D.C., is postponed to November 27, 1973, at Washington, D.C., in the Offices of the Interstate Commerce Commission.

MC-2900 Sub 208, Ryder Truck Lines, Inc., Extension—Dallas and Fort Worth, Tex., now being assigned hearing on January 14, 1974 (2 weeks), at Dallas, Tex., in a hearing room to be later designated.

MC 133119 Sub 19, Heyl Truck Lines, Inc., now being assigned hearing December 3, 1973 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC-F-11820, United Truck Service—Control—West Nebraska Express, Inc., and Wilson Brothers Truck Lines, Inc., now being assigned hearing December 5, 1973 (3 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 103993 Sub 727, Morgan Drive-Away, Inc., Extension—Monroe County, Arkansas, now assigned November 8, 1973, at Memphis, Tenn., is canceled.

MC 121060 Sub 22, Arrow Truck Lines, Inc., Extension—Marreo, La., now assigned December 3, 1973, at New Orleans, La., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22836 Filed 10-25-73;8:45 am]

[Notice No. 144]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 19, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under Section 210a (a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107403 (Sub-No. 860 TA), filed October 11, 1973. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Syrup noibn*, in bulk, in tank vehicles, from Southdown, La. (near Houma, La.), to Wheeling, W. Va., for 180 days. SUPPORTING SHIPPER: P. M. Curran, Southdown Sugars, Inc., P.O. Box 52378, New Orleans, La. 70152. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, William J. Green, Jr., Federal Bldg., Room 3238, Philadelphia, Pa. 19106.

No. MC 110525 (Sub-No. 1072 TA), filed October 11, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent copper slimes*, in bulk, in tank vehicles, from Berlin, Haddam, Rockville, and Windsor Locks, Conn., to Balmat, N.Y. (St. Lawrence County), for 180 days. SUPPORTING SHIPPER: Recycling Laboratories, Inc., 112 Harrison Place, Syracuse, N.Y. 13202. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

No. MC 110988 (Sub-No. 301 TA), filed October 11, 1973. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: David A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium phosphate*, in bulk, in hopper-type vehicles, from the plantsite of Olin Corporation in Joliet, Ill., to Elwood City, Pa., for 180 days. SUPPORTING SHIPPER: Olin Corporation, 120 Long Ridge Road, Stamford, Conn. 06904. SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 113175 (Sub-No. 4 TA), filed October 12, 1973. Applicant: JOE M. CROCKER, doing business as JOE CROCKER TRUCKING CO., P.O. Box 7558, Holly and Wood Streets, Corpus Christi, Tex. 78415. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, having prior or subsequent movement, in containers, beyond the points authorized, and restricted to the performance of pickup and delivery service in connection with packing, crating, containerization and unpacking, uncrating and decontainerization of such traffic, between points in Austin, Chambers, Fort Bend, Galveston, Grimes, Harris, Jefferson, Liberty, Montgomery San Jacinto, Orange, Waller, and Wharton Counties, Tex., for 180 days. SUPPORTING SHIPPERS: There are approximately 9 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway Building, Room 206, San Antonio, Tex. 78205.

No. MC 113175 (Sub-No. 5 TA), filed October 12, 1973. Applicant: JOE M. CROCKER, doing business as JOE CROCKER TRUCKING CO., P.O. Box 7558, Holly and Wood Streets, Corpus Christi, Tex. 78415. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, having prior or subsequent movement, in containers, beyond the points authorized, and restricted to the performance of pickup and delivery service in connection with packing, crating, containerization and unpacking, uncrating, and decontainerization of such traffic, between Corpus Christi, Tex., on the one hand, and, on the other, points in Live Oak, Karnes, Goliad, De Witt, Hidalgo, Calhoun, Jackson, Matagorda, Brazoria, Kenedy, Willacy, and Cameron Counties, Tex., for 180 days. SUPPORTING SHIPPERS: There are approximately 13 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office

named below. SEND PROTESTS TO: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway Building, Room 206, San Antonio, Tex. 78205.

No. MC 123048 (Sub-No. 277 TA), filed October 11, 1973. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, P.O. Box A, Racine, Wis. 53403. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the Ports of Entry on the United States/Canada border crossings in Minnesota, to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin, restricted to the transportation of traffic moving from Manitoba Forestry Resources, Ltd., in Manitoba, Canada, for 180 days. SUPPORTING SHIPPER: Manitoba Forestry Resources, Ltd., 902–213 Notre Dame Avenue, Winnipeg, Manitoba, Canada. SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 129974 (Sub-No. 10 TA), filed October 12, 1973. Applicant: THOMPSON BROS., INC., P.O. Box 457, Toronto, S. Dak. 57268. Applicant's representative: F. H. Kroeger, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, conduit, vinyl siding, mouldings, valves, fittings, compounds, joint sealer, bonding cement, and accessories and materials* used in the installation thereof (except commodities in bulk) from the plantsite and storage facilities of Certain-Teed Products Corporation at McPherson, Kans., to points in Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, North Dakota, Nebraska, Ohio, South Dakota, Wisconsin, and Wyoming, for 180 days. SUPPORTING SHIPPER: Certain-Teed Products Corporation, P.O. Box 860, Valley Forge, Pa. 19482, Thomas F. McGrath, General Traffic Manager, SEND PROTESTS TO: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 136474 (Sub-No. 4 TA), filed October 11, 1973. Applicant: ALLIED DELIVERY AND INSTALLATION, INC., 230 Willow Street, P.O. Box 7427, Nashville, Tenn. 37210. Applicant's representative: Robert L. Baker, 300 James Robertson Parkway, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by Home Products Distributors, between Nashville, Tenn., and points in Bedford, Bledsoe, Cannon, Cheatham, Clay, Coffee, Cumberland, Dickson, Davidson, De Kalb, Fentress, Giles, Franklin, Grundy, Hickman, Houston, Humphreys, Jackson, Lincoln, Lawrence, Macon, Marshall, Maury, Montgomery, Moore, Overton, Perry, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Stewart, Trousdale, Van Buren, Warren, Wayne, Williamson, Wilson, and White Counties, Tenn., and Allen, Barren, Christian, Logan, Simpson, Todd, Trigg, and Warren Counties, Ky., for 180 days. SUPPORTING SHIPPERS: Stanley Home Products, Inc., 700 Firestone Blvd., Memphis, Tenn. 38107, and Amway Corporation, Atlanta Distribution Center, 100 Wheaton Drive SW., Atlanta, Ga. 30336. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803–1808 West End Building, Nashville, Tenn. 37203.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22833 Filed 10-25-73;8:45 am]

[Notice No. 378]

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 November 15, 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–74585. By order of October 17, 1973, the Motor Carrier Board approved the transfer to Lakeport Transfer, Ltd., Racine, Wisconsin, of Certificate No. MC–135729 (Sub-No. 1), issued February 9, 1973, to Marc D. Elsmo and Joan E. Elsmo, a partnership, doing business as Lakeport Transfer, Racine, Wisconsin, authorizing the transportation of general commodities, with exceptions, between the facilities of Morelli Overseas Export Service of Wisconsin, Inc., at or near Kenosha, Wis., on the one hand, and, on the other, points in Illinois, Iowa, Minnesota, Missouri, Wisconsin and the Upper Peninsula of Michigan. Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641, representative of applicants.

No. MC–FC–74619. By order of October 18, 1973, the Motor Carrier Board approved the transfer to Edward H. Hoffheins, Abbottstown, Pa., of Permits Nos. MC–106374 (Sub-No. 2) and MC–106374 (Sub-No. 3), issued November 7, 1946, and July 5, 1951, respectively, to Martin A. Stough, York New Salem, Pa., authorizing the transportation of ground agricultural limestone from Thomasville, Pa., to points in Delaware and Maryland. Mr. Norman T. Petow, attorney at law, 43 North Duke Street, York, Pa. 17401.

No. MC–FC–74745. By order of October 18, 1973, the Motor Carrier Board approved the transfer to W. L. Kidd Oil Field Service, Inc., Denver City, Tex., of Certificates No. MC–85445 (Sub No. 1) and MC–85445 (Sub No. 6) issued to Donald Lee Walker, Edinburg, Tex., authorizing the transportation of: Machinery, equipment, materials, and supplies used, and useful in the gas and petroleum industries and in the stringing and picking up of pipelines, between points in Texas. Thomas F. Sedberry, attorney, 1102 Perry-Brooks Bldg., Austin, Texas 78701.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22835 Filed 10-25-73;8:45 am]

[Notice No. 84]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 19, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and by December 26, 1973, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 730 (Sub-No. 349) (correction), filed June 6, 1973, published in the FEDERAL REGISTER issue of August 2, 1973, and republished, as corrected, this issue. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94604. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Petroleum products*, in bulk, in tank vehicles; (1) from points in San Juan County, N. Mex., to points in Arizona; (2) between points in California (except shipments moving in foreign commerce); (3) from points in Texas, to points in California and Oregon; and (B) *gas odorants*, in bulk, in tank vehicles, from Houston, Tex., to points in Wyoming and North Dakota.

NOTE.—The purpose of this republication is to include additional tacking information which was inadvertently omitted in the previous publication. Common control may be involved. Applicant states that authority sought for transportation of petroleum products between points in California will be tacked at Chico, California (Sub-No. 204), Meridian, California (Sub-No. 52) and Oildale, California (Sub-No. 294) to serve points in Oregon and Washington. Tacking is also intended at Los Angeles and Contra Costa Counties, California to serve states authorized under Sub-No. 323. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Albuquerque, New Mexico.

No. MC 2860 (Sub-No. 126), filed August 7, 1973. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08260. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, (1) from the plant or warehouse facilities of Heinz U.S.A., at Holland, Mich., Iowa City and Muscatine, Iowa, Salem, N.J., Bowling Green and Fremont, Ohio, and Mechanicsburg, Chambersburg, Leetsdale, and Pittsburgh, Pa., to the distribution facility of Heinz U.S.A. at Greenville, S.C., and (2) from the distribution facility of Heinz U.S.A. at Greenville, S.C., to points in Alabama, Georgia, Mississippi, Tennessee, and the New Orleans, Louisiana commercial zone, restricted to traffic originating at and destined to the points and territories named above.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 2860 (Sub-No. 129), filed August 31, 1973. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, Esq., 1126 16th Street NW., Suite 300, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, between points in Cumberland County, N.J., on the one hand, and, on the other, points in Indiana, Maine, New Hampshire, and Vermont.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at Cumberland County, N.J., to serve points in the Middle Atlantic, Southern New England, Southern, and Midwestern territories. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 3581 (Sub-No. 18) (amendment), filed May 10, 1973, published in the FEDERAL REGISTER issue of June 21, 1973, and republished, as amended, this issue. Applicant: THE MOTOR CONVOY, INC., P.O. Box 82432, Hapeville, Ga. 30054. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and trucks*, in initial movement, in truckaway service, from Boynton Beach, Fla., to points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to indicate that applicant seeks to provide service from Boynton Beach, Fla. in lieu of West Palm Beach, Fla. Applicant states that the requested authority will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 7921 (Sub-No. 2), filed September 16, 1973. Applicant: HARRY MEEKER OVERBAUGH, 119 Grandview Avenue, Catskill, N.Y. 12414. Applicant's representative: Alfred C. Purello, 451 State Street, Albany, N.Y. 12203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Live wild animals*, which are usually found in zoos, circuses, and other exhibitions, including *rare birds, semidomesticated animals, fish and reptiles*, (1) between Catskill, N.Y., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), (2) between points in Alaska, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (3) between points in Hawaii, restricted to the transportation of traffic originating at or destined to out of State points.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at Albany or Syracuse, N.Y.

No. MC 19945 (Sub-No. 39), filed August 28, 1973. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry bulk fertilizer and fertilizer ingredients*, from Burlington River Terminal at or near Burlington, Iowa, and Mason City, Iowa, to points in Wisconsin and Illinois.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 20841 (Sub-No. 10), filed September 7, 1973. Applicant: MARATHON FREIGHT LINES, INC., 2400 83d Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are used by, or sold in, grocery, discount, department, drug stores, candy, and tobacco jobbers* (except commodities in bulk and furniture), between the plantsite of Atlantic Distribution Center, Inc., at or near Jersey City, N.J., on the one hand, and, on the other, New York, N.Y., and points in Connecticut, New Jersey, and Rockland, Orange, Westchester, Nassau, Suffolk, Dutchess, Putnam, and Sullivan Counties, N.Y.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 27817 (Sub-No. 109), filed August 8, 1973. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, (1) from the plant or warehouse facilities of Heinz U.S.A. at Salem, N.J.; and Mechanicsburg and Chambersburg, Pa., to the distribution facility of Heinz U.S.A. at Greenville, S.C., and (2) from the distribution facility of Heinz U.S.A. at Greenville, S.C., to points in Alabama, restricted to traffic orignating at and destined to the points and territories shown.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsubrgh, Pa.

No. MC 51146 (Sub-No. 331), filed July 9, 1973. Applicant: SCHNEIDER TRANSPORT, INC., 2661 S. Broadway,

Green Bay, Wis. 54304. Applicant's representative: D. F. Martin, P.O. 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures thereto, and those materials and supplies* used in the manufacture of glass containers, from the plantsite of the Midland Glass Company, Inc., located at or near Terre Haute, Ind., to points in Wisconsin, restricted to traffic originating at the above named plantsite and destined to points in Wisconsin.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52657 (Sub-No. 709), filed August 8, 1973. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis, trailer converter dollies*, in initial movements, in truckaway service, and (2) *motor vehicle bodies, containers, and materials, supplies* (except commodities in bulk) and *parts* used in the manufacture, assembly or serving of trailers, trailer chassis, trailer converter dollies, motor vehicle bodies and *containers* when moving with such commodities, from New Castle, Pa., to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 54444 (Sub-No. 4), filed August 17, 1973. Applicant: MAIN EXPRESS & STORAGE CO., a corporation, 5938 South 13th Street, Milwaukee, Wis. 53221. Applicant's representative: G. Phillip Beitz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Flying Tiger and WTC Air Freight terminals, located in Milwaukee County, Wis., on the one hand, and, on the other, O'Hare Field, Cook County, Ill., restricted to shipments having a prior or subsequent movement by air, moving under waybills issued by The Flying Tiger Line or WTC Air Freight.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Milwaukee, Wis.

No. MC 61396 (Sub-No. 253) (amendment), filed July 19, 1973, published in the FEDERAL REGISTER issue, August 30, 1973, and republished as amended this issue. Applicant: HERMAN BROS., INC., 2501 North 11th Street, P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: Dale G. Herman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, (1) from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas and (2) from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to indicate applicant seeks to provide additional service from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

No. MC 61825 (Sub-No. 58), filed July 5, 1973. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: George S. Hales (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clocks, new furniture and furniture parts*, between Bassett, Bedford, Christiansburg, Martinsville, Ridgeway, Roanoke, and South Boston, Va., on the one hand, and, on the other, points in Arizona, California, Colorado, Connecticut, Idaho, Maine, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming and (2) *materials, equipment, and supplies* used in the manufacture and distribution of clocks, new furniture and furniture parts (except commodities in bulk, in tank vehicles), from points in Arizona, California, Colorado, Connecticut, Idaho, Maine, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming, to Bassett, Bedford, Christiansburg, Martinsville, Ridgeway, Roanoke, and South Boston, Va.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked in MC 61825 (Sub-No. 38) at Martinsville, Va., on new furniture, but no new service would be provided. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 66886 (Sub-No. 41), filed August 13, 1973. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building panels*, from the plant facilities of Star Manufacturing Co., at or near Oklahoma City, Okla., to points in Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Illinois, Kentucky, Tennessee, Mississippi, Alabama, Georgia, and Florida.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 69116 (Sub-No. 158), filed July 5, 1973. Applicant: SPECTOR FREIGHT SYSTEM, INC., a corporation, 205 West Wacker Drive, Chicago, Ill. 60606. Applicant's representative: Jack Goodman, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and materials, and supplies, and accessories* used in the installation thereof, from the plantsite of Johns-Manville Corporation at or near Jackson (Madison County), Tenn., and Wilton (Muscatine County), Iowa, to points in Illinois, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin, restricted to traffic originating at the plantsites of Johns-Manville Corporation.

NOTE.—Applicant states that the requested authority can be tacked with its existing regular-route authority at the destination States named above to provide a through service from the plantsites of Johns-Manville Corporation at or near Jackson (Madison County), Tenn. and Wilton (Muscatine County), Iowa to points in Arkansas, Kansas, Oklahoma, Texas, Delaware, Maryland, Virginia, New Jersey, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, and the District of Columbia. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 73165 (Sub-No. 330), filed August 9, 1973. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: R. Connor Wiggins, Jr., 909 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, and materials, equipment, and supplies* used in the manufacture, distribution, installation, and application of such commodities (except commodities in bulk), between the plantsite and storage facilities of the National Gypsum Company at or near Mobile, Ala., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant states that tacking possibilities exist, but are not sought. If a hearing is deemed necessary, applicant requests it be held at Mobile or Birmingham, Ala.

No. MC 82063 (Sub-No. 46), filed August 31, 1973. Applicant: KLIPSCH HAULING CO., a Corporation, 119 East Loughborough, St. Louis, Mo. 63111. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Liquid coal tar pitch emulsion*, in bulk, from Granite City, Ill., to points in Alabama, Colorado, Florida, Georgia, Illinois, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio, or Washington, D.C.

No. MC 86779 (Sub-No. 33), filed August 1, 1973. Applicant: ILLINOIS CENTRAL GULF RAILROAD COMPANY, a Corporation, 135 E. 11th Place, Chicago, Ill. 60605. Applicant's representative: John H. Doeringer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, including those of unusual value and (except Class A and B explosives, commodities in bulk in tank vehicles, and those requiring special equipment), between Princeton, Ky., and Nashville, Tenn.: From Princeton over Kentucky Highway 91 to Hopkinsville and junction U.S. Alternate Highway 41, thence over U.S. Alternate Highway 41 to Clarksville, Tenn., and junction Tennessee Highway 12, thence over Tennessee Highway 12 (also over U.S. Alternate Highway 41) to Nashville, and return over the same route, restricted (1) to service to and from points that are rail stations of Illinois Central Gulf Railroad Co., at Princeton, Hopkinsville, Masonville, Thompsonville, and Edgoten, Ky., and Kenwood, Clarksville, Hickory Point, Doddsville, Fox Bluff, Chapmansboro, Ashland City, Scottsboro, Jordonia, Riverside, and Nashville, Tenn., and (2) to shipments moving on a through bill of lading involving an immediate prior or subsequent movement by rail.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Frankfort, Louisville, or Paducah, Ky., or Nashville, Tenn.

No. MC 89697 (Sub-No. 26), filed August 13, 1973. Applicant: KRAJACK TANK LINES, INC., 480 Westfield Avenue, Roselle Park, N.J. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in New Jersey, to points in Maine, Vermont, and New Hampshire.

NOTE.—Applicant states that the requested authority can be tacked at points in New Jersey counties, to serve points in Delaware, Pennsylvania, and Baltimore, Md. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 95876 (Sub-No. 143), filed August 17, 1973. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and composition board*, from points in Oregon and Washington, to Sioux Falls, S. Dak., LaCrosse and Superior, Wis., and points in Minnesota.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority in: Sub. 9 at points in Minnesota, on contractors' and construction materials, to serve points in Wisconsin; Sub. 28 at Littlefork and Northome, Minn., on sectional wood fencing and posts, to serve points in Colorado, Kansas, Oklahoma, and Texas; Sub. 44 at points in Hubbard, Wadena, Becker, and Ottertail Counties, Minn., on wood shavings, to serve points in Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin; Sub. 53 at Littlefork, Minn., and points in Beltrami County, Minn., on wood fencing, to serve points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Texas; Sub. 64 at Fergus Falls, Minn., and points within 20 miles thereof, on construction materials, to serve points in Fargo, N. Dak.; Sub. 71 at Littlefork, Minn.; points in Upper Michigan; Beltrami County, Minn., and/or Amberg Township, Marinette County, Wis., on wood fencing, posts, rails, etc., to serve points in the United States (except Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington); Sub. 113 (a) at port of Entry on the International Boundary line between the United States and Canada at or near Grand Portage and/or International Falls, Minn., and (b) at Superior, Wis., on lumber, poles, and pilings, to serve points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, and Wisconsin and Sub. 116 at Cloquet, Minn., on composition board, to serve points in Arkansas, Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, South Carolina, Texas, Vermont, Virginia, West Virginia, and the District of Columbia. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 97629 (Sub-No. 9), filed April 6, 1973. Applicant: HILLER TRUCK LINES, INC., P.O. Drawer 1309, Jasper, Ala. 35501. Applicant's representative: John P. Carlton, 601 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: PART I: REGULAR ROUTES: *General commodities* (except commodities requiring special equipment, and Classes A and B explosives) (1) between Hamilton, Ala., and Ripley, Miss.: From Hamilton over U.S. Highway 78 to New Albany, Miss., thence over Mississippi State Highway 15 to Ripley, and return over the same route, serving all intermediate points; (2) between Millport, Ala., and Starkville, Miss.: From Millport over Alabama Highway 96 to the Alabama-Mississippi State line, thence over Mississippi Highway 50 to Columbus, Miss., thence over U.S. Highway 82 to Starkville, and return over the same route, serving all intermediate points; (3) between Vernon, Ala., and Columbus, Miss.: From Vernon over Alabama Highway 18 to the Alabama-Mississippi State line, thence over Mississippi Highway 12 to Columbus, and return over the same route, serving all intermediate points; (4) between Sulligent, Ala., and the junction of U.S. Highways 278 and 45 near Wren, Miss.: From Sulligent over U.S. Highway 278 to junction U.S. Highway 45 and return over the same route, serving all intermediate points; (5) between Columbus, and Tupelo, Miss.: From Columbus over U.S. Highway 45 to Tupelo, serving all intermediate points, and the off-route points of Amory, Miss.: (6) Between Birmingham, Ala., and Columbus, Miss., over U.S. Highway 82: From Birmingham over U.S. Highway 11 and/or Interstate Highway 20/59, to junction U.S. Highway 82 near Tuscaloosa, Ala., thence over U.S. Highway 82 to Columbus, Miss., and return over the same route, serving no intermediate points; (7) serving West Point, Miss., as an off-route point, and serving all intermediate and off-route points in Mississippi on and bounded by a line commencing at the intersection of U.S. Highway 82 and the Alabama-Mississippi State line, thence over U.S. Highway 82 to junction U.S. Highway 45, thence over U.S. Highway 45 to Tupelo, Miss., thence over U.S. Highway 78 to the Alabama-Mississippi State line, thence along the Alabama-Mississippi State line to the point of beginning; and (8) Between Florence, Ala., and Collinwood, Tenn.: From Florence over Alabama Highway 17 to the Alabama-Tennessee State line, thence over Tennessee Highway 13 to Collinwood and return over the same route, serving all intermediate points.

PART II: REGULAR ROUTES: (A) *Commodities generally* (except commodities requiring special equipment, and explosives) (1) between Jasper, Ala., and Birmingham, Ala.; from Jasper over U.S. Highway 78 to Birmingham and return over the same route. Service is authorized to or from the off-route points of Dora, Cordova, Cooley's Mill, and Sipsey, Ala.; (B) *commodities generally* (except commodities requiring special equipment, and explosives) (1) between Birmingham, Ala., and Russellville, Ala., over U.S. Highway 78 and Alabama State Highway 5, via Jasper, Double Springs, Haleville, and Phil Campbell, serving all intermediate points and all off-route points within 10 miles of said highways; (2) between Jasper, Ala., and Phil Campbell, Ala., as follows: Commencing at Jasper, thence over U.S. Highway 78 to Hamilton via Winfield and Guin, thence from Hamilton over U.S. Highway 43 to Phil Campbell, serving all intermediate points and all off-route points within 10 miles of said highways; (3) between Jasper, Ala., and Vernon, Ala., over Alabama State Highway 18 via Fayette, serving all intermediate points and all off-route points within 10 miles of said highway; (4) between Winfield, Ala., and Millport, Ala., as follows: Commencing at Winfield, thence over Alabama State Highway 13 to Fayette, thence from Fayette over Alabama State Highway 96 to Millport, serving all intermediate points and all off-route points within 10 miles of said highway; (5) between Millport, Ala., and Hamilton, Ala., as follows: Commencing at Millport, Ala., thence over Alabama State Highway 17 via Sulligent and Vernon to Hamilton serving all intermediate points and all off-route points within 10

miles of said highway; and (6) between Sulligent, Ala., and Guin, Ala., over Alabama State Highway 118 serving all intermediate points and all off-route points within 10 miles of said highway.

(C) *General commodities*, except uncrated household goods and commodities injurious or contaminating to other lading: (1) Between Florence, Ala., and Russellville, Ala., via U.S. Highway 43, serving all intermediate points. *General commodities*, except uncrated household goods, commodities injurious or contaminating to other lading and except explosives: (1) Between Russellville and Birmingham, Ala., with doors closed, for operating convenience only over the following routes: Between Birmingham and Jasper, Ala., over U.S. Highway 78 and between Jasper and Russellville over Alabama Highway 5; (D) *commodities generally:* (1) Between Decatur, Ala., and Russellville, Ala., over Alabama Highway 24 via Five Points, Moulton, Landersville, Newburg, and Waco, serving all intermediate points and Mt. Hope as an off-route point; and (E) *general commodities:* (1) Between Jasper, Ala., and Decatur, Ala., via County Road No. 41, serving all intermediate points; (2) between Jasper, Ala., and Cullman, Ala., via Alabama Highway 69, serving all intermediate points; and (3) between Russellville, Ala., and Red Bay, Ala., via Alabama Highway 24 serving all intermediate points. IRREGULAR ROUTES: (A) *General commodities*, except household goods, over irregular routes: (1) Between Sheffield, Ala., and points and places within a 10-mile radius thereof; and (2) between Montgomery, Ala., on the one hand, and points and places within a 10-mile radius thereof, on the other hand; (B) *general commodities:* Between Birmingham, Ala., on the one hand, and the following points on the other, to-wit: Auburn, Bessemer, Decatur, Florence, Lister Hill, Opelika, Sheffield, Tuscaloosa, and Tuscumbia, with service to no intermediate points; (C) *commodities generally*, except household goods, over a regular route as follows: Between Birmingham, Ala., on the one hand, and Montgomery, Ala., on the other hand, via U.S. Highway 31, with no service to or from intermediate points; (D) *general commodities*, except commodities in bulk, serving Brown's Ferry, site of the TVA installation (approximately 10 miles northwest of Decatur, Ala.), and unincorporated points within 5 miles thereof, as off-route points in connection with operations otherwise authorized;

(E) *General commodities*, over regular routes as follows: Between Birmingham, Ala., Cullman and Decatur, Ala., via U.S. Highway 31 and/or Interstate Highway 65 for operating convenience only and serving no points except those otherwise authorized to be served; (F) *Funeral supplies, paper products, packinghouse products, lubricating oil and grease, sash and doors, automobile accessories, soda ash, iron and steel articles, pumps and compressors, bailed and rope excelsior and compressed gases, containers (empty and full), related commodities and equipment*, over a regular route as follows: Between Birmingham, Ala., on the one hand, and Anniston via U.S. Highway 78 and between Birmingham and Bessemer, Ala., via U.S. Highway 11, and with no service to or from intermediate points; and (G) *Funeral supplies, drugs and cosmetics, leather goods, paper products, packinghouse products, shoe polish, soda ash, automobile accessories, box materials, iron and steel articles, electric appliances and supplies and equipment, hardware, blankets, building materials, lubricating oil and grease, stationery supplies, compressed gases, containers (empty and full), related commodities and equipment* over a regular route as follows: (1) Between Birmingham, Ala., on the one hand, and Gadsden, Attalla, and Alabama City, on the other hand, via Alabama Highway 7, with no service to or from intermediate points. *Building material* in truckload lots, minimum weight 7500 lbs.: (1) Between Birmingham, Ala., on the one hand, and Auburn and Opelika, Ala., on the other hand, via Alabama Highways 91 and 14, and U.S. Highway 241, and with no service to or from intermediate points. *Sash and doors* in truckload lots, minimum weight 7500 lbs.: (1) Between Birmingham, Ala., on the one hand, and Tuscaloosa, Ala., on the other hand, over Alabama Highway 7, with no service to or from intermediate points.

Wooden box material in truckload lots, minimum weight 7,500 pounds, *compressed gases, containers (empty and full), related commodities and equipment:* (1) Between Birmingham, Ala., on the one hand, and Decatur, Florence, Lister Hill, Sheffield, and Tuscumbia, Ala., on the other hand, via Alabama Highway 20, and U.S. Highway 31, and with no service to or from intermediate points. Authority also is sought to serve terminal areas of all municipalities at which service is otherwise authorized, viz., where the certificate authorizes service from and to an incorporated city (base point) service is authorized (1) at all points and places within the corporate limits of such incorporated city, (2) at all points and places within the corporate limits of all incorporated cities whose corporate limits are contiguous to those of the base point, and (3) at points in unincorporated areas within the distance specified below from the corporate limits of such base point or contiguous municipality: (A) Where the population of the base point is less than 2,500, 2 miles; (B) Where the population of the base point is 2,500 or more, but less than 25,000, 3 miles; (C) Where the population of the base point is 25,000 or more, but less than 100,000, 4 miles; and (D) Where the population of the base point is 100,000 or more, 5 miles. The authority hereby extended shall not authorize any service not presently authorized at, around or adjacent to Birmingham, Attalla, Gadsden, Mobile, Florence, Sheffield, or Tuscumbia, Ala., or municipalities contiguous or those adjacent to any of such cities.

NOTE.—The purpose of Part II of the application is to convert a Certificate of Registration into a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Tupelo, Miss. with subsequent hearing at Birmingham, Ala.

No. MC 104683 (Sub-No. 34), filed August 9, 1973. Applicant: TRANSPORT, INC., Russell Drive, Meridian, Miss. 39301. Applicant's representative: Douglas R. Duke, 552 First National Bank Bldg., P.O. Box 157, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in bulk, in tank vehicles, from points in Mobile County, Ala., to points in that part of Mississippi north and west of a line beginning at Alabama-Mississippi State line and extending along U.S. Highway 80 to Jackson, Miss., thence along U.S. Highway 49 to Gulfport, Miss. (except Macon, Brookhaven, Columbia, Crystal Springs, DeKalb, McComb, Natchez, Picayune, Union, U.S. Air Force Base at Columbus, and Navy Jet Training Base approximately twelve miles north of Meridian, Miss.).

NOTE.—Applicant states that the requested authority can be tacked at Mobile County, Ala., to serve points in that part of Mississippi south and east of a line beginning at Alabama-Mississippi State line and extending along U.S. Highway 80 to Jackson, Miss., thence along U.S. Highway 49 to Gulfport, Miss. If a hearing is deemed necessary, applicant requests it be held at either Jackson, Miss., New Orleans, La., or Atlanta, Ga.

No. MC 105045 (Sub-No. 44), filed September 5, 1973. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock feed bunkers, livestock scales, forage metering devices, animal waste spreader tanks, livestock feeding systems, and parts and accessories* for the above, from DeKalb, Ill., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to shipments originating at the plantsites or warehouse facilities of A. O. Smith Corporation, Harvestore Prod., Div. at DeKalb, Ill.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 106278 (Sub-No. 35), filed August 24, 1973. Applicant: E. B. LAW AND SON, INC., P.O. Box 1360, Las Cruces, N. Mex. 88001. Applicant's representative: William J. Lippman, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from points in New Mexico, to points in Arizona.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary,

applicant requests it be held at Albuquerque, N. Mex., or El Paso, Tex.

No. MC 106497 (Sub-No. 80), filed July 30, 1973. Applicant: PARKHILL TRUCK COMPANY, a corporation, P.O. Box 912, Business Route I–44 East, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.C. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled cranes, power hammers, and material handling equipment;* and (2) *accessories, attachments, and parts* when moving in mixed loads with the commodities described in (1) above, from the facilities of Broderson Manufacturing Company, Lenexa, Kans., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control was approved in Docket No. MC–F–10006. Applicant states that the requested authority can be tacked with its existing size and weight authority in Sub-Nos. 4, 35, and 48 to provide service between points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Oregon, Texas, Washington, and Wyoming. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 107012 (Sub-No. 191), filed August 10, 1973. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Michael L. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpet underlay*, uncrated, from Temple, Tex., to points in Louisiana, Colorado and New Mexico, and (2) *carpet*, uncrated, from Memphis, Tenn., and its commercial zone, to points in the United States (except Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin, Alaska, Hawaii, and the District of Columbia).

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority can be tacked in (1) above at points in Colorado, Louisiana and New Mexico, to serve points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin, and the District of Columbia and in (2) above at Memphis, Tenn., and its commercial zone, to provide a through service from points in Connecticut, Delaware, Maine, Maryland Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and the District of Columbia, to points in North Carolina, South Carolina, Georgia, Virginia, Florida, and Alabama. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Dallas, Tex.

No. MC 107295 (Sub-No. 659), filed August 1, 1973. Applicant: PRE–FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections and component parts thereof, from Youngsville, La., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of the instant application is to eliminate the necessity of providing service through various gateways. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107295 (Sub-No. 667), filed August 9, 1973. Applicant: PRE–FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilators and ventilator systems, and parts and equipment* thereof, (1) from Tabor City, N.C., to points in the United States (except Alaska and Hawaii), and (2) from Junction City, Ky., to points in North Carolina, South Carolina, Florida, Georgia, and Alabama.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 107839 (Sub-No. 153), filed August 1, 1973. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., a corporation, 2121 East 67th Street, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons, Jr., Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising material*, from Golden, Colo., to Denver, Colo.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in Sub-No. 90 at Denver, Colo., to provide a through service from Golden, Colo., to points in Texas. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 107993 (Sub-No. 30), filed August 1, 1973. Applicant: J. J. WILLIS TRUCKING COMPANY, a corporation, 2608 Electronic Lane, Dallas, Tex. 75220. Applicant's representative: J. G. Dale, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Antipollution systems, equipment and parts, liquid cooling and vapor condensing systems, equipment, and parts, environmental control and protective systems, equipment, and parts*, the transportation of which, because of size or weight requires the use of special equipment, and (2) *equipment, materials* and *supplies* used in the construction or installation of anti-pollution and environmental control and protective systems, and liquid cooling and vapor condensing systems, when moving in mixed loads with the articles described in (1) above, between Cisco and Wichita Falls, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at Cisco and Wichita Falls, Tex. (a) in Sub 19 to the extent they also qualify as size or weight commodities to and from points in Texas, New Mexico, Arizona, Oklahoma, and Colorado; and (b) in Subs. 10 and 19, to the extent they also qualify as Mercer commodities, to and from points in Texas, New Mexico, Arizona, Louisiana, Kansas, Oklahoma, Arkansas, Colorado, Utah, and Wyoming. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 108449 (Sub-No. 358), filed July 1, 1973. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck, 1947 West County Road C, St. Paul, Minn. 55113. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the plantsites and warehouse facilities of Marquette Mfg. Co., division of Applied Power, Inc., located at St. Paul, Minn., Atlanta, Ga., and Bangor, Pa.; (2) *general commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the plantsites of Marquette Mfg. Co., division of Applied Power, Inc., located at St. Paul, Minn., and Bangor, Pa., to points in Alabama, Arkansas, Florida, Illinois, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin; and (3) *materials, supplies, and equipment* used by Marquette Mfg. Co., division of Applied Power, Inc., from points in Delaware, Illinois, Indiana, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, to the plantsites of Marquette Mfg. Co., division of Applied Power, Inc., at St. Paul, Minn., and Bangor, Pa.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in Sub-No. 176 at St. Paul and Minneapolis, Minn., to serve points in Iowa, though no new service would be provided. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 110098 (Sub-No. 140), filed August 10, 1973. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, in containers, from Columbus, Ohio, to points in New Mexico, Arizona, California, Nevada, and Utah, restricted to traffic originating at the facilities of Kal Kan Foods, Inc., at Columbus, Ohio, and destined to the named destination States.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Los Angeles, Calif.

No. MC 112617 (Sub-No. 307), filed August 13, 1973. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastics*, in bulk, in tank vehicles, from the plantsite of E. I. du Pont at or near Wurtland, Ky., to points in Arkansas, Indiana, Ohio, New Jersey, Virginia, and West Virginia, restricted to traffic originating at the named plantsite and destined to the indicated destinations.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112617 (Sub-No. 308), filed August 10, 1973. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: L. A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Jet fuel*, in bulk, in tank vehicles, from the plantsite of Ashland Oil, Inc., at or near Covington, Ky., to the Boeing Aircraft Co., at or near Wichita, Kans.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 112668 (Sub-No. 56), filed July 27, 1973. Applicant: HARVEY R. SHIPLEY & SONS, INC., Finksburg, Md. 21048. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings*, and *materials and supplies* used in the manufacture thereof (except commodities in bulk), between the plantsites and facilities of Congoleum Industries, Inc., at or near Finksburg, Md., Trenton, N.J., and Marcus Hook, Pa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112822 (Sub-No. 289), filed August 9, 1973. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little St., Cushing, Okla. 74023. Applicant's representative: Jim R. Gardner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and warehouse facilities of Campbell Soup Company at or near Omaha, Nebr., to points in Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, restricted to traffic originating at the plantsite and warehouse facilities of Campbell Soup Company at or near Omaha, Nebr.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

No. MC 112822 (Sub-No. 292), filed August 24, 1973. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little St., Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from the plantsite of Farmland Industries Nitrogen Plant at or near Enid, Okla., to points in Kansas, Texas, Colorado, Missouri, Arkansas, and Louisiana, restricted to shipments originating at said plantsite.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Tulsa, Okla.

No. MC 113666 (Sub-No. 81), filed August 15, 1973. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Steven L. Weiman, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products, materials, and supplies* used in the production and installation of refractory products (except liquid commodities, in bulk, in tank vehicles), and *brick*, from points in West Virginia, Kentucky, Pennsylvania, Ohio, and Missouri, to ports of entry on the international boundary line between the United States and Canada, located at points in Minnesota, Michigan, New York, Maine, New Hampshire, and Vermont.

NOTE.—Applicant states that the requested authority can be tacked with MC 113666 (Sub-No. 23), on refractories, at points in Pennsylvania to provide a through service from Forms, N.J., to ports of entry on the international boundary line between the United States and Canada. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 113855 (Sub-No. 282), filed August 6, 1973. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and agricultural machinery parts and attachments*, from points in Pepin County, Wis., to points in Idaho, Utah, California, Washington, Oregon, and Missouri.

NOTE.—Applicant states that the requested authority can be tacked at points in Wisconsin, on size and weight commodities and self-propelled articles weighing over 15,000 pounds to serve points in Northern Illinois and Iowa. Applicant has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113908 (Sub-No. 286), filed August 16, 1973. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed, additives, ingredients, and supplements*, in bulk, in tank, and hopper type vehicles (except molasses, vegetable oil and dry superphosphate), from Des Moines, Iowa, to points in Parmer, Castro, Potter, Randall, and Deaf Smith Counties, Tex.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary; applicant requests it be held at either Kansas City, Mo., Forth Worth, Tex., Tulsa, Okla., or St. Louis, Mo.

No. MC 114019 (Sub-No. 249), filed July 12, 1973. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicants' representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate, liquid chocolate coating, liquid cocoa butter, and chocolate liqueur*, in bulk, in tank vehicles, from Dover, Del., to Chicago, Ill.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked at Chicago, with its Sub 38, to serve points in Wisconsin, Iowa, Illinois, Missouri, and Minnesota. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114604 (Sub-No. 21), filed July 30, 1973. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, Bldg. 33, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, plantains, and pineapples*, from Tampa, Fla., to points in Mississippi, Tennessee, Alabama, Georgia, North Carolina, and South Carolina.

NOTE.—Applicant states that the requested authority can be tacked but no new service will be provided. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 114890 (Sub-No. 67) (amendment), filed July 20, 1973, published in FEDERAL REGISTER issue of September 27, 1973, and republished as amended, this issue. Applicant: C. E. REYNOLDS TRANSPORT, INC., P.O. Box A, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 600 Leininger Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, (1) from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas, and (2) from Kansas

City, Mo., and Kansas City, Kans., to points in Nebraska.

NOTE.—Applicant states that the requested authority can be tacked under its lead certificate at Military, Kans., to serve points in Missouri, Oklahoma, Arkansas, and Texas; under Sub-No. 33, at a plantsite at or near Dodge City, Kans., to provide service to points in Colorado, Wyoming, Texas, Oklahoma, Missouri, Nebraska, and Iowa; and with Sub-No. 44, at Atchison, Kans., to serve points in Iowa, Missouri, and Nebraska. The purpose of this amendment is to add (2) which states an additional need for service from Kansas City, Mo., and Kansas City, Kans., to points in Nebraska. If a hearing is deemed necessary, applicant requests it be held at either Tulsa or Oklahoma City, Okla., or Kansas City, Mo.

No. MC 115022 (Sub-No. 28), filed August 9, 1973. Applicant: CHAMBERLAIN MOBILEHOME TRANSPORT, INC., 64 East Main Street, Thomaston, Conn. 06787. Applicant's representative: Bernard J. Hasson, 927 15th Street NW., Suite 306, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and semitrailers*, low-bed, equipped with pintle hooks or fifth wheel, from points in Gloucester County, N.J., to points in the United States (except Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 115331 (Sub-No. 347), filed August 6, 1973. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies*, in initial truckaway and driveaway service, from Milan, Mich., and Memphis, Tenn., to points in the United States (including Alaska, but excluding Hawaii); (2) *trailers, trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies*, in secondary truckaway and driveaway service, between points in the United States (including Alaska, but excluding Hawaii); (3) (a) *tractors*, in secondary movements, in driveaway service, only when drawing trailers in initial movements, between Milan, Mich., and points in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia; and (b) *tractors*, in secondary movements, in driveaway service, only when drawing trailers in secondary movements, between Milan, Mich., and points in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, and the District of Columbia; (4) *bodies and containers*, between points in the United States (including Alaska, but excluding Hawaii); and (5) *materials, supplies, and parts* used in the manufacture, assembly, or servicing of the commodities described in (1), (2), and (4) above, when moving in mixed loads with such commodities, between Milan, Mich., and Memphis, Tenn., and points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at Fort Madison, Iowa, but no new service would be provided. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 115654 (Sub-No. 23), filed August 8, 1973. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, Nashville, Tenn. 37219. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, confectionery products, chocolates*, and *related chocolate items* (except in bulk) in vehicles equipped with mechanical refrigeration, from Atlanta, Ga., to points in Alabama on and north of U.S. Highway 80.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 115730 (Sub-No. 1), filed August 10, 1973. Applicant: THE MICKOW CORP., 1914 East Euclid, P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonferous metals*, between Chicago, Ill., on the one hand, and, on the other points in Iowa and Nebraska.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, Chicago, Ill., or Washington, D.C.

No. MC 115826 (Sub-No. 254), filed August 24, 1973. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 2310 Colorado Nat'l Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California, Idaho, Washington, and Oregon, to points in Arkansas, Iowa, Illinois, Kansas, Louisiana, Minnesota, Indiana, Nebraska, North Dakota, Missouri, Oklahoma, South Dakota, Texas, Wisconsin, Utah, restricted to traffic stopped at or near Ogden, Utah, for storage-in-transit.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Denver, Colo.

No. MC 116698 (Sub-No. 10), filed July 6, 1973. Applicant: BILL G. CARR AND PHYLLIS R. CARR, a Partnership, doing business as ARROWHEAD TRANSPORTATION, 103 Moore Lane, Billings, Mont. 59102. Applicant's representative: Jerome Anderson, 100 Transwestern Building, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), between Billings and Laurel, Mont.: from Billings over Interstate Highway 90 and/or U.S. Highway 10, to Laurel, for purposes of tacking or joinder only.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 117551 (Sub-No. 4), filed August 21, 1973. Applicant: NEWS AND FILM SERVICE, INC., 745 Lipan Street, Denver, Colo. 80204. Applicant's representative: John H. Lewis, The 1650 Grant St. Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Books and magazines*, between Denever, Colo., on the one hand, and, on the other, points in Colorado.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 118038 (Sub-No. 6) (amendment), filed July 18, 1973, published in the FEDERAL REGISTER issue, August 30, 1973, and republished as amended this issue. Applicant: EASLEY HAULING SERVICE, INC., P.O. Box 1261, Gun Club Road, Yakima, Wash. 98907. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene forms and shapes*, (1) from Wenatchee, Wash., to ports of entry on the International Boundary line between the United States and Canada in Idaho and Washington, and (2) from Wenatchee, Wash., to Lewiston, Richfield, Franklin, and Hagerman, Idaho.

NOTE.—Applicant holds contract carrier authority in MC 103494 and subs thereunder, therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this amendment is to permit applicant to use any port of entry on the Washington and Idaho boundaries between the United States and Canada rather than just the one port of entry near Bonners Ferry, Idaho. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 118130 (Sub-No. 66), filed August 3, 1973. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from the plantsite and storage facilities of Western Potato Service, Inc., at Grand Forks, N. Dak., and storage facilities utilized by Western Potato Service, Inc., at Dallas, Tex.; Denver, Colo.; Doraville, Ga.; Fort Dodge, Iowa; Independence, Mo.; Kansas City, Kans.; Miami, Fla.; Oakland, Calif.; and Sodus, Mich.; on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Kentucky, Maryland, Minnesota, Montana, Nevada, New Mexico, North Carolina, Oregon, South Carolina, South Dakota, Utah, Virginia, Washington, West Virginia, and Wyoming.

NOTE.—Applicant states that the requested authority can be tacked (a) at Miami, Fla., Doraville, Ga., Independence, Mo., Kansas City, Kans., and Dallas, Tex., to provide a through service from Crookston, Duluth, Minneapolis, Albert Lea, and Mankato, Minn., and Fargo, N. Dak., and Sioux City, Iowa, to the destination States named above, (b) at points in Minnesota to serve the origin points named above, (c) at Grand Forks, N. Dak., but no new service will be provided, and (d) at Denver, Colo., Doraville, Ga., Sodus, Mich., Grand Forks, N. Dak., Dallas, Tex., to provide a through service from the plantsites and warehouse sites of Mississippi Rederated Cooperatives (AAL) at or near Collins, New Albany, Canton, Crystal Springs, and Jackson, Miss., to serve the destination States named above. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Dallas, Tex., or Fort Worth, Tex.

No. MC 118831 (Sub-No. 107), filed August 7, 1973. Applicant: CENTRAL TRANSPORT, INCORPORATED, Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities*, in bulk, from points in Spartanburg County, S.C., to points in North Carolina.

NOTE.—Common control was approved in Docket No. MC-F-7867. Applicant states that the requested authority can be tacked with its existing authority: (1) at Spartanburg County, S.C.: (a) in Sub-Nos. 21 (Dry Commodities), 29 (Dry polyethylene), and 57 (Fertilizer and fertilizer materials) to provide a through service from various counties in North Carolina to points in North Carolina, and (b) in Sub-No. 25 to provide a through service from points in South Carolina to points in North Carolina; and (2) at points in North Carolina in Sub-No. 32 to provide a through service from Spartansburg, S.C. to points in South Carolina and Virginia. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 119400 (Sub-No. 12) (Amendment), filed June 22, 1973, published in the FEDERAL REGISTER issue of August 2, 1973, and republished, as amended, this issue. Applicant: SIMANEK, INC., 150 West 7th Street, Wahoo, Nebr. 68066. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in tank trucks, (1) from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas, and (2) from Kansas City, Mo.-Kans., to points in Nebraska.

NOTE.—The purposes of this republication are to indicate: (a) The commodity restriction to tank trucks; and (b) the request for authority in (2) above. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 119702 (Sub-No. 40), filed August 3, 1973. Applicant: STAHLY CARTAGE CO., a corporation, P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: Robert D. Higgins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed and feed supplements* in bulk, in tank vehicles, from the plantsite of Land O'Lakes, Inc., at or near Dubuque, Iowa, to points in Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill., or Chicago, Ill.

No. MC 119777 (Sub-No. 270), filed August 13, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, pallets, skids, bases, boxes, crates, crating, veneer, baskets, treads, risers, sills, molding, cardboard cartons, nails, flooring, treated poles, treated piling, treated lumber, treated crossarms, and treated crossties*, between points in Alabama, on the one hand, and, on the other, points in Wisconsin, Michigan, Pennsylvania, Ohio, Indiana, Illinois, and Kentucky.

NOTE.—Applicant holds contract carrier authority in MC 126970 (Sub-No. 1 and 3), therefore, dual operations may be involved. Common control may also be involved. Applicant states that the requested authority could be tacked at points in Muhlenburg County, Ky., but no new service would be provided. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 119789 (Sub-No. 180), filed August 23, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188 (1612 East Irving Boulevard, Irving, Tex.), Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined sugar*, in packages, from Arabi, Gramercy, Mathews, Reserve, and Supreme, La., to points in Arkansas, Florida, Georgia, Illinois, Indiana Iowa, Kansas, Kentucky, Michigan Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Dallas, Tex.

No. MC 120184 (Sub-No. 9), filed August 29, 1973. Applicant PEP LINES TRUCKING CO., a Corporation, 15120 Third Avenue, Highland Park, Mich. 48203. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order and chain retail department stores, between Detroit, Mich., on the one hand, and, on the other, J. C. Penney Co., Inc., stores, warehouses, and customers, located at points in Wayne, Monroe, Lenawee, Washtenaw, Livingston, Macomb, Genesee, Lapeer, St. Clair, and Oakland Counties, Mich., those in that part of Shiawassee County, Mich., on and east of Michigan Highway 52, those in that part of Jackson County, Mich., and east of Michigan Highway 127, and those in that part of Ingham County, Mich., on and east of a line beginning at the intersection of its southern boundary with Michigan Highway 52 to junction with the northern boundary of Ingham County.

NOTE.—Applicant holds contract carrier authority in MC 135280 and subs thereunder, therefore, dual operations may be involved. Common control may also be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 123233 (Sub-No. 50), filed August 13, 1973. Applicant: PROVOST CARTAGE INC., 7887 Second Avenue, Ville d'Anjou 437, Quebec, Canada. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and carbon tetrachloride*, in bulk, in tank vehicles, from the ports of entry on the International Boundary line between the United States and Canada located in New York, Vermont, and Maine, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Ohio, Rhode Island, and Vermont, restricted to traffic having a prior movement in foreign commerce originating at the plantsites of Canadian Industries Limited, and of Cornwall Chemicals Limited at Cornwall, Ontario, Canada.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 123314 (Sub-No. 19), filed August 8, 1973. Applicant: JOHN F. WALTER, INC., P.O. Box 175, Newville, Pa. 17241. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, (1) from the plant or warehouse facilities of Heinz U.S.A. at or near Toledo, Bowling Green, Geneva, and Freemont, Ohio; Mechanicsburg, Chambersburg, Leetsdale, and Pittsburgh, Pa.; and Salem, N.J., to the distribution facility of Heinz U.S.A. at Greenville, S.C.; and (2) from the distribution facility of Heinz U.S.A. at Greenville, S.C., to points in Georgia, restricted to traffic originating at and destined to the points named above.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 123765 (Sub-No. 3) (Correction), filed August 22, 1973, published in FEDERAL REGISTER issue of September 27, 1973, and republished, as corrected, this issue. Applicant: BARRY TRANSFER AND STORAGE CO., INC., 120 East National Avenue, Milwaukee, Wis. 53204. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail department stores*, between the retail outlets, storage facilities and distribution centers of H. C. Prange Co., located in Wisconsin, on the one hand, and, on the other, the retail outlets and storage facilities of H. C. Prange Co., at or near Rockford, Ill., restricted to traffic originating at or destined to the said retail outlets, storage facilities and distribution centers of H. C. Prange Co.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in MC 6031 Sub 34, therefore dual operations may be involved. Common control may also be involved. The purpose of this republication is to indicate that the facilities of H. C. Prange Company located at Green Bay, Wis., should be extended to include all facilities of H. C. Prange Co., located in Wisconsin. If a hearing is deemd necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 123805 (Sub-No. 11), filed August 14, 1973. Applicant: G. H. LOMAX, Rural Route No. 1, Hannibal, Mo. 63401. Applicant's representative: Thomas P. Rose, Jefferson Building, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural limestone and crushed stone* (excluding mineral filler), in bulk, in dump vehicles, from points in Pike and Ralls Counties, Mo., to points in Illinois in a territory beginning at the intersection of the Mississippi River with U.S. Highway 34, thence east along U.S. Highway 34 to intersection Illinois Highway 116, thence along Illinois Highway 116 to intersection U.S. Highway 51, thence south along U.S. Highway 51 to intersection Illinois Highway 16, thence west along Illinois Highway 16 to intersection U.S. Highway 67, thence south along U.S. Highway 67 to the Mississippi River, thence north along the Mississippi River to the point of beginning and (2) *dry fertilizer, fertilizer ingredients and fertilizer scrap materials*, in bulk, in dump vehicles, from the plantsite of American Cyanamid Company, located at or near South River (Marion County), Mo., and from the plantsite of Hercules, Incorporated, located at or near Louisiana (Pike County), Mo., to points in Illinois, beginning at the intersection of the Mississippi River with U.S. Highway 136, thence east along U.S. Highway 136 to intersection U.S. Highway 51, thence south along U.S. Highway 51 to intersection Illinois Highway 16, thence west along Illinois Highway 16 to intersection U.S. Highway 67, to the Mississippi River, thence north along the Mississippi River, to the point of beginning.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jefferson City or St. Louis, Mo.

No. MC 124004 (Sub-No. 27), filed August 15, 1973. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, N.J. 07871. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal, poultry and pet feed ingredients and cracklings*, (a) between points in Pennsylvania, New Jersey, and New York, on the one hand, and, on the other, points in Virginia and North Carolina; (b) from points in Pennsylvania, Maryland, Delaware, North Carolina, New York, New Jersey, and Virginia, to points in Ohio, Indiana, Minnesota, Illinois, and Wisconsin, and (c) between points in New York, New Jersey, and Pennsylvania; (2) *stone*, (a) from points in Hunterdon County, N.J., and Bucks County, Pa., to points in Florida, Georgia, Illinois, Kentucky, North Carolina, and South Carolina, and (b) from points in North Carolina and Maryland, to Lumberville, Pa.; (3) *animal and poultry feed ingredients*, (a) from points in Virginia and Massachusetts, to Philadelphia, Pa., and (b) from points in Pennsylvania, to points in Indiana, Minnesota, Illinois, Wisconsin, and Iowa, and (4) *animal, poultry, and pet feed ingredients*, from points in Rhode Island, to points in New York.

NOTE.—Applicant states that the requested authority can be tacked with its lead authority, in MC 124004 and Subs 3, 10, 13, 15, 16, and 20 and at points in Pennsylvania, New Jersey, or New York, to serve the entire Eastern Seaboard. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 125140 (Sub-No. 18), filed August 10, 1973. Applicant: RICHARD R. BRUNZLICK, Box 69, Augusta, Wis. Applicant's representative: F. H. Kroeger, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, dairy byproducts, fruit juices and fruit drinks*, from St. Paul, Minn., to points in Barron, Chippewa, Dunn, Eau Claire, La Crosse, Monroe, Polk, St. Croix, and Trempealeau Counties, Wis., under contract with Land O'Lakes, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 126542 (Sub-No. 3), filed August 21, 1973. Applicant: B. R. WILLIAMS TRUCKING INC., P.O. Box 3310, Oxford, Ala. 36201. Applicant's representative: John W. Cooper, 1314 City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal castings, tubing, and wrought metal shapes*, and (2) *equipment, material, and supplies* used in the manufacture and distribution thereof, between the manufacturing plants and warehouses of Phelps Dodge Brass Company, a division of Phelps Dodge Industries, Inc., located throughout the United States (except Alaska and Hawaii), against transportation of commodities in bulk, under a continuing contract, or contracts, with Phelps Dodge Brass Company, a division of Phelps Dodge Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 128273 (Sub-No. 143), filed August 9, 1973. Applicant: MIDWESTERN DISTRIBUTION, INC., Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-ferrous metal scraps, spent nickel catalyst, crude nickel sulphate, cobalt, copper, ferro nickel, nickel, nickel oxide, nickel oxide sinter, and ammonium sulphate*, between the plantsite and storage facilities of America Metal Climax, Inc., and its subsidiaries at or near Port Nickel, La., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128988 (Sub-No. 30), filed August 13, 1973. Applicant: JO/KEL, INC., P.O. Box 1249, 159 South Seventh Avenue, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home decorating trimmings and accessories and items* used in the sale, distribution, and installation of home decorating trimmings and accessories, (1) from

Montgomery, Pa., to Dallas, Tex., and Los Angeles, Calif.; and (2) from Dallas and Lockhart, Tex., to Los Angeles, Calif., restricted: (a) to traffic originating at or destined to the facilities of Conso Products, Division of Consolidated Food Corporation; (b) against the transportation of commodities in bulk and those commodities which because of their size or weight require the use of special equipment; and (c) to a transportation service to be performed under a continuing contract or contracts with Conso Products, Division of Consolidated Food Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York City, N.Y., or Washington, D.C.

No. MC 133655 (Sub-No. 62), filed August 31, 1973. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Charles Singer, Suite 1000, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated, from Lenoir, N.C., to points in Oklahoma.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 134084 (Sub-No. 2), filed August 31, 1973. Applicant: CLIFFORD M. SHROCK, 940 Blaine Street, Woodburn, Oreg. 97071. Applicant's representative: Robert R. Hollis, 1121 Commonwealth Bldg., Portland, Oreg. 97140. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Clackamas County, Oreg., to points in Multnomah County, Oreg., and Clark and Cowlitz Counties, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 134113 (Sub-No. 8), filed August 27, 1973. Applicant: HI-BALL TRUCKING, INC., P.O. Box 1117, Billings, Mont. 59103. Applicant's representative: Joe Gerbase, 100 Transwestern Building, 404 North 31st Street, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poles, posts*, and *treated lumber*, from Bellingham, Wash., to points in North Dakota and South Dakota.

NOTE.—Common control may be involved. Applicant indicates that tacking possibilities exist, but are not sought. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 134282 (Sub-No. 11), filed August 17, 1973. Applicant: ENNIS TRANSPORTATION CO., INC., P.O. Box 447, Ennis, Tex. 75119. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing products, including shingles, roll roofing, saturated felt, and material* used in the installation of such roofing products, in truckload shipments, from the plantsite of Daingerfield Manufacturing Company, located at Daingerfield, Tex., to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Tennessee.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or New Orleans, La.

No. MC 134718 (Sub-No. 7), filed August 14, 1973. Applicant: EDWARD P. HOWELL, INC., R.D. No. 6, Box 17, Elkton, Md. 21921. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden flooring blocks or squares*, from the facilities of Sullivan Flooring Company, Pikesville, Md., to points in Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia, under contract with Sullivan Flooring Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135032 (Sub-No. 6), filed August 17, 1973. Applicant: HIAWATHA PRODUCE COMPANY, a Corporation, 3850 4th Street, Winona, Minn. 55987. Applicant's representative: Allan B. Torhorst, 217 East Jefferson Street, P.O. Box 190, Burlington, Wis. 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New motocycles*, in crates, from Norfolk, Va.; Newark, N.J.; Baltimore and Timonium, Md.; and Norwood, N.J., to Winona, Minn., and Equ Claire, Wis., and (2) *yarn*, from Cleveland, Ohio, and Rochelle, Ill., to Winona, Minn.

NOTE.—Applicant holds contract carrier authority in MC 133709 (Sub-No. 1), therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135248 (Sub-No. 7) (clarification), filed May 14, 1973, and published in the FEDERAL REGISTER issue of June 26, 1973, and republished, as clarified, this issue. Applicant: WILLIAM H. DEES, doing business as, DEES TRANSPORTATION, P.O. Box 446, Worland, Wyo. 82401. Applicant's representative: Robert S. Stauffer, 3539 Boston, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Waste products*, for recycling or reuse in the furtherance of recognized pollution control programs, and *recycled or reuseable products*, between points in the United States (except Alaska and Hawaii), located west of the eastern boundaries of Minnesota, Iowa, Missouri, Arkansas, and Louisiana and points in Illinois; and (2) *nonalcoholic beverages and gilsonite products*, between points in Wyoming, Colorado, Nebraska, Nevada, Idaho, Utah, Arizona, Kansas, Montana, New Mexico, and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to clearly set forth the boundaries in the territorial description as described in (1) above. If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo.; Salt Lake City, Utah; or Billings, Mont.

No. MC 135639 (Sub-No. 3), filed August 13, 1973. Applicant: QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, Pa. 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Old Forge, Pa., as an off-route point in connection with carrier's regular-route operations between Rochester, N.Y., and New York, N.Y.

NOTE.—Common control may be involved. Applicant concurrently requests dismissal of this application should the Commission determine that the applicant presently holds authority to serve Old Forge, Pa., pursuant to the provisions in the superhighway rules, Ex Parte MC-65. If a hearing is deemed necessary, applicant requests it be held at Harrisburgh, Pa.

No. MC 135725 (Sub-No. 10), filed August 10, 1973. Applicant: FRY TRUCKING, INC., 507 West 5th Street, Wilton, Iowa 52778. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients, pre-mixes, trace minerals and mixtures, animal health products, insecticides, disinfectants*, and *mineral feeders*, (1) between Marion, Ohio, on the one hand, and, on the other, points in Georgia, Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, and Virginia; (2) from Fremont, Nebr., to Marion, Ohio; and (3) from Monmouth, Ill. to Fremont, Nebr.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in Sub-No. 5(a) at Monmouth, Ill. to provide a through service from Madison, Wis., to points in Georgia, Kentucky, New York, Pennsylvania, and Virginia; (b) at points in Illinois, Indiana, and Michigan to provide a through service from Madison, Wis., to Marion, Ohio; (c) at Quincy, Ill., to serve Marion, Ohio, though no new service would be provided; and (d) at the States named in (1) above to provide a through service from Winfield, Iowa, to Marion, Ohio, though no new service would be provided. Applicant does not seek additional tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 136212 (Sub-No. 5), filed August 16, 1973. Applicant: JENSEN

TRUCKING COMPANY, INC., 213 S. Washington Street, P.O. Box 37, Papillion, Nebr. 68046. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the manufacturing and storage facilities of H. J. Heinz Company, located at Holland, Mich., Toledo, Fremont, and Bowling Green, Ohio, Muscatine, and Iowa City, Iowa, to the warehouse and storage facilities utilized by H. J. Heinz Company at Arlington, Tex.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Dallas, Tex.

No. MC 136318 (Sub-No. 12), filed August 15, 1973. Applicant: COYOTE TRUCK LINE, INC., 395 West Fleming Drive, Morgantown, N.C. 28655. Applicant's representive: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Thomasville, Winston-Salem, Lenoir, and Pleasant Garden, N.C., to points in Washington, Oregon, Nevada, Montana, Idaho, Utah, Wyoming, New Mexico, North Dakota, and South Dakota, under contract with Thomasville Furniture Industries, Thomasville, N.C.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 136318 (Sub-No. 13), filed August 15, 1973. Applicant: COYOTE TRUCK LINE, INC., 395 West Fleming Drive, Morganton, N.C. 28655. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture*, from Lenoir, Shelby, Statesville, and Troutman, N.C., to points in Washington, Oregon, California, Nevada, Montana, Idaho, Utah, Arizona, Wyoming, New Mexico, North Dakota, and South Dakota, under contract with Bernhardt Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 136786 (Sub-No. 28), filed August 13, 1973. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Missouri Beef Packers, Inc., at or near Boise, Idaho, to points in Nebraska, Illinois, Wisconsin, Iowa, Missouri, and Minnesota, restricted to traffic originating at the named plantsite and storage facilities and destined to the named states.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 136904 (Sub-No. 18) (Correction), filed June 26, 1973, published in FR issue of August 23, 1973, and republished, as corrected, this issue. Applicant: WORSTER-MICHIGAN, INC., Gay Road, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities of Banquet Foods Corporation at or near Wellston, Ohio, to points in Illinois, Indiana, Iowa, Minnesota, Missouri, and Wisconsin.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to correct the docket number from MC 109478 (Sub-No. 128) to MC 136904 (Sub-No. 18), and title change from Worster Motor Lines, Inc., to Worster-Michigan, Inc., If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 136989 (Sub-No. 5), filed August 17, 1973. Applicant: R. F. BOX, doing business as R. F. BOX TRUCKING, 1401 Dartmouth NE., Albuquerque, N. Mex. 87106. Applicant's representative: Edwin E. Piper, Jr., 1115 Sims Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering* (except carpeting and rugs), (1) from the plantsite of GAF Corporation located at or near Allentown (Whitehall Township), Pa., to points in Idaho, Montana, and Colorado (except Montezuma, La Plata, Archuleta, Conejos, Costilla, and Las Animas Counties, Colo.) and (2) from the plantsite of GAF Corporation located at or near Allentown (Whitehall Township), Pa., to points in Utah and Colorado, under contract with L. D. Brinkman & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 138003 (Sub-No. 2), filed August 17, 1973. Applicant: ROBERT F. KAZIMOUR, 1200 Norwood Drive SE., P.O. Box 2011, Cedar Rapids, Iowa 52403. Applicant's representative: Michael J. Myers, 309 Badgerow Building, Sioux City, Iowa 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Appliances*, from Newton, Webster City, and Fort Dodge, Iowa, to points in Montana, Idaho, and Wyoming, under a continuing contract with the Franklin Manufacturing Company and the Maytag Company and (2) *appliances, furnaces and air conditioners*, between points in Iowa, California, Washington, Idaho, Oregon, Arizona, Utah, Nevada, Montana, Minnesota, Georgia, and Tennessee, under a continuing contract with Lennox Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Des Moines, Iowa, Omaha, Nebr., or Washington, D.C.

No. MC 138011 (Sub-No. 1), filed August 8, 1973. Applicant: TRANS WESTERN TRANSPORT, INC., 901 East Glendale Avenue, Sparks, Nev. 89431. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), from Sparks, Nev., to points in California, under a continuing contract with Pacific Freeport Warehouse Company and (2) *Fiberboard or pulpboard boxes knocked down, flat, corrugated, fiberboard or pulpboard, and corrugated supplies and material* used in the manufacture thereof, from Salinas, Fullerton, and San Leandro, Calif., to Sparks, Nev., and points in Nevada within 50 miles of Sparks, under a continuing contract with Hoerner-Waldorf Corporation. If a hearing is deemed necessary, applicant requests it be held at Reno or Carson City, Nev.

No. MC 138218 (Sub-No. 1) (amendment), filed June 25, 1973, published in the FEDERAL REGISTER of August 9, 1973, and republished as amended, this issue. Applicant: MID-CITY FREIGHT LINES, INC., Route 1, Sibley, Mo. 63136. Applicant's representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc and aluminum castings* and *raw zinc* and other *products* used in the manufacture and production of zinc and aluminum castings, between the plantsite of Lyons Diecasting Company located at or near Buckner, Mo., on the one hand, and, on the other, points in Iowa, Nebraska, Illinois, Missouri, Kansas, Ohio, Indiana, Wisconsin, Oklahoma, Georgia, Kentucky, Tennessee, and West Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to broaden the requested authority and to indicate a new representative. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138304 (Sub-No. 2), filed August 13, 1973. Applicant: NATIONAL PACKERS EXPRESS, INC., Suite 330, 29 S. La Salle St., Chicago, Ill 60603. Applicant's representative: Craig B. Sherman (same address as applicant). Au-

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, malt beverage dispensing equipment, and advertising materials and supplies* (except commodities in bulk), from Trenton, N.J., to points in Ohio, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Missouri, Colorado, Michigan, Kentucky, Tennessee, North Dakota, South Dakota, Arizona, Washington, Oregon, Texas, and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., New York, N.Y., or Washington, D.C.

No. MC 138407 (Sub-No. 2), filed August 2, 1973. Applicant: LAHMANN INTERNATIONAL CORP., 1337 West Seventh Street, Cincinnati, Ohio 45203. Applicant's representative: Theodore K. High, Esq., 2208 Central Trust Tower, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between the Greater Cincinnati Airport in Boone County, Ky., and the James M. Cox Municipal Airport near Dayton, Ohio, on the one hand, and, on the other, the Detroit Metropolitan Airport near Detroit, Mich., restricted to traffic having an immediate prior or subsequent movement by air.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio.

No. MC 138505 (Sub-No. 2), filed August 13, 1973. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 710 North Post Oak, Suite 100, Houston, Tex. 77024. Applicant's representative: Theodore K. High, 2208 Central Trust Tower, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated and unpackaged furniture and related merchandise* when moving in mixed shipments with uncrated and unpackaged furniture, when moving between retail stores and their branches and warehouses of H. & S. Pogue Company in Hamilton County, Ohio, on the one hand, and, on the other, points in Franklin, Dearborn, Ripley, Ohio, and Switzerland Counties, Ind., and Campbell, Kenton, Boone, Bracken, Pendleton, Grant, Gallatin, and Owen Counties, Ky., under contract with H. & S. Pogue Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio.

No. MC 138651 (Sub-No. 1), filed August 15, 1973. Applicant: RALPH HYDER, INC., 660 SE. 176th Place, Portland, Oreg. 97233. Applicant's representative: David C. White, 2400 SW. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wooden shakes and shingles*, from points in Clallam, Cowlitz, Grays Harbor, Jefferson, Lewis, and Snohomish Counties, Wash., and Tillamook County, Oreg., and (2) *shake felt*, from Portland, Oreg., to points in California, Nevada, and Arizona, under a continuing contract with Wesco Cedar, Inc.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 138786 (Sub-No. 2), filed August 13, 1973. Applicant: CHARLES A. TERPENING TRUCKING CO., INC., 341 Driscoll Avenue, Syracuse, N.Y. 13204. Applicant's representative: Homer S. Carpenter, 618 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from ports of entry on the International Boundary line between the United States and Canada at or near Rooseveltown and Ogdensburg, N.Y., to points in Broome, Cayuga, Chemung, Cortland, Essex, Franklin, Herkimer, Jefferson, Lewis, Madison, Monroe, Oneida, Onondaga, Ontario, Oswego, Steuben, Tompkins, Wayne, and Yates Counties, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y.

No. MC 138866 (Sub-No. 2), filed August 17, 1973. Applicant: S. E. S. TRUCKING, INC., Box 199, Barbourville, Ky. 40906. Applicant's representative: O. R. Parsons (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed limestone and asphalt*, from the plantsite of Southeastern Stone Quarries, Inc., located 8 miles west of Ewing, Va., on U.S. Highway 58, to points in Bell, Knox, Laurel, Whitley, Clay, Jackson, Harland, and Leslie Counties, Ky.; Clairborne, Hancock, and Campbell Counties, Tenn., and Lee County, Va., under contract with Southeastern Stone Quarries, Inc., of Ewing, Va., and Willis Paving Corporation of Gray, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Barbourville, Ky., Middlesboro, Ky., London, Ky., Knoxville, Tenn., or Lexington, Ky.

No. MC 138953 (annotation), filed July 16, 1973, published in the FEDERAL REGISTER issue of September 27, 1973, and republished as corrected, in part, this issue. Applicant: CROWN MOVING AND STORAGE COMPANY, a Corporation, 180 Quint Street, San Francisco, Calif. 94124. Applicant's representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111.

NOTE.—The purpose of this partial republication is to indicate the correct applicant as CROWN MOVING AND STORAGE COMPANY in lieu of GROWN MOVING AND STORAGE COMPANY as previously published. The rest of the notice remains as originally published.

No. MC 139050, filed August 6, 1973. Applicant: JAMES R. GRIFFIN, doing business as, ASTRO TRANSPORT, 179 Newbury Street, Danvers, Mass. 01923. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Industrial, commercial, and institutional dish washing machines*, uncrated and, when transported therewith, *uncrated component parts and attachments*, from Newton, Mass., to points in the United States (except Alaska and Hawaii); and (2) *used returned industrial, commercial, and institutional dish washing machines* and *component parts and attachments*, uncrated, from points in the United States (except Alaska and Hawaii), to Newton, Mass.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Boston, Mass.

No. MC 139051, filed July 22, 1973. Applicant: CLYDE W. DAVIS and ROBERT C. LINDLEY, a partnership, doing business as DAVIS CARTAGE COMPANY, P.O. Box 908, Dyersburg, Tenn. 38024. Applicant's representative: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) having a prior or subsequent movement by rail, (1) Between Dyersburg and Jackson, Tenn.: From Dyersburg over Tennessee Highway 20 to Jackson, and return over the same route, serving the intermediate point of Alamo, Tenn.; and (2) Between Jackson and Dyersburg, Tenn.: From Jackson over U.S. Highway 70 to Brownsville, Tenn., thence over Tennessee Highway 19 to Ripley, Tenn., thence over U.S. Highway 51 to Dyersburg, Tenn., and return over the same route, serving the intermediate point of Halls, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville or Memphis, Tenn.

No. MC 139083, filed August 13, 1973. Applicant: VAN'S TRANSPORTATION, INC., P.O. Box 367, Middletown, Ohio 45042. Applicant's representative: Paul F. Beery, Suite 1660, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A)(1) *Steel buildings*, knocked down, and *fabricated metal products*, from points within three miles of Washington Court House, Ohio, to points in Kentucky; those in that part of Pennsylvania on and west of U.S. Highway 15; those in that part of West Virginia on and north of U.S. Highway 60; and those in that part of Indiana on and south of a line beginning at the Ohio-Indiana State line and extending thence along Indiana Highway 37 to Indianapolis, Ind., and thence along U.S. Highway 40 to the Indiana-Illinois State line; (2) *empty containers*, used for the transportation of the above-specified commodities, from points in the above-specified destination area, to points within three miles of Washington Court House, Ohio; (B) *iron*

and steel and iron and steel articles (except scrap metal), from the plantsite of Armco Steel Corporation in Summit, Ky., to points in Kentucky, West Virginia, Virginia, Pennsylvania, Ohio, Indiana, Tennessee, Michigan, Illinois, New York, New Jersey, Maryland, Wisconsin, Missouri, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized, and (C) *pipe* (except iron or steel pipe), between Summit (Boyd County), Ky., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at and destined to the points of origin and destination specified in (A), (B), and (C) above.

NOTE.—Applicant seeks by this application to convert its Permit in MC 112533 and Subs 2 and 4, into a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 139114, filed August 9, 1973. Applicant: ROGER E. FAIRCHILD, doing business as FAIRCHILD TRANSPORTATION COMPANY, 705 East First Street, Spencer, Iowa 51301. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic molded parts, paper products, fishing rods, fishing reels, fishing leaders, fishing rigs, and plastic and nylon pellets*, from points in Massachusetts, New Jersey, Kansas, Nebraska, Oklahoma, Texas, Louisiana, Arkansas, Missouri, Illinois, Minnesota, Wisconsin, and Iowa to Spirit Lake and Emmetsburg, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Washington, D.C.

MOTOR CARRIER OF PASSENGERS

No. MC 668(Sub-No. 95) (amendment), filed October 4, 1971, published in the FEDERAL REGISTER issue of November 11, 1971, and republished, as amended, this issue. Applicant: INTER-CITY TRANSPORTATION CO., INC., DONALD A. ROBINSON, TRUSTEE, 419 Anderson Avenue, Fairview, N.J. 07022. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and newspapers and express* in the same vehicle with passengers, (1) between Paterson, N.J., and New York, N.Y.: From junction Main Street and Slater Street, Paterson, N.J., over Slater Street and Marshall Street to Interstate Highway 80 Access Road, thence over access road to Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 495, thence over Interstate Highway 495 to New York, N.Y., and return over the same route to junction Interstate Highway 80 and access road leading into Main Street, Paterson, N.J., thence over access road to Main Street, Paterson, N.J., serving no intermediate points except for purposes of joinder; (2) within Paterson, N.J.: From junction Main Street and Madison Avenue, over Madison Avenue and Access Road to Interstate Highway 80, and return over the same route, serving all intermediate points; (3) between Paramus and Hackensack, N.J.: From junction N.J. Highways 4 and 17, Paramus, N.J., over N.J. Highway 17 and access roads to Interstate Highway 80, and return over the same route, serving no intermediate points except for the purpose of joinder; (4) within Hackensack, N.J.: From junction Essex Street and Summit Avenue, over Essex Street to Polifly Road, thence over Polifly Road and access roads to Interstate Highway 80, and return over the same route, serving all intermediate points; and (5) within Hackensack, N.J.: From junction Summit Avenue and Mary Street, over Mary Street, to junction Polifly Road, and return over the same route, serving all intermediate points.

NOTE.—The purpose of this republication is to indicate applicant's amended route description in the request for authority described above. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 3700 (Sub-No. 66) (Amendment), filed October 26, 1971, published in the FEDERAL REGISTER issue of December 2, 1971, and republished, as amended, this issue. Applicant: MANHATTAN TRANSIT COMPANY, a corporation, Route 46, East Paterson, N.J. 07407. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, N.Y. 10018. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express and newspapers* in the same vehicle with passengers, (1) Between Paterson, N.J., and Manhattan, N.Y.: From junction Lakeview Avenue and Interstate Highway 80 Access Road, over access road to Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 495, thence over Interstate Highway 495 to Manhattan, N.Y., and return over the same route to Interstate Highway 80 and access road to junction of Market Street, Paterson, N.J., serving no intermediate points except for the purpose of joinder; (2) In Paterson, N.J.: From junction Lakeview Avenue and Interstate Highway 80 Access Road, over access road to junction New Jersey Highway 20 Access Road, thence over access road to junction of Market Street Access Road, thence over access road to Market Street, and return from junction of Market Street and Market Street Access Road over access road to Market Street, serving all intermediate points; (3) In East Paterson, N.J.: From Interstate Highway 80 over access road to junction of River Drive and Locust Street, thence over Locust Street and access road to Interstate Highway 80, and return from Interstate Highway 80 over access road and River Drive to junction of Market Street, serving all intermediate points; (4) Between Little Ferry and Hackensack, N.J.: From junction Main Street and Liberty Street (Moonachie Avenue), Little Ferry, N.J. over Liberty Street (Moonachie Avenue) and Moonachie Road to junction Hudson Street, thence over Hudson Street to junction Kennedy Street, thence over Kennedy Street and access road to Inter-State Highway 80, and return over the same route, serving no intermediate points; (5) In Ridgefield Park, N.J.: From Interstate Highway 80 over access road to junction North Avenue, and return over the same route, serving all intermediate points; (6) Between South Hackensack and Teterboro, N.J.: From Interstate Highway 80, over access road to North Avenue, Teterboro, N.J., thence from North Avenue over access road to Interstate Highway 80, and return from Interstate Highway 80 over access road to Westly Street, thence over access road to Interstate Highway 80, serving all intermediate points; and (7) Between Bogota and Teaneck, N.J.: From junction of Palisade Avenue and East Main Street, Bogota, over East Main Street to junction DeGraw Avenue, Teaneck, thence over DeGraw Avenue and access roads to Interstate Highway 95, thence over Interstate Highway 95 to Interstate Highway 80, Teaneck, N.J., and return over the same route, serving no intermediate points except for joinder purposes.

NOTE.—The purpose of this republication is to indicate applicant's amended route description in the request for authority described above. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 93130 (Sub-No. 2), filed June 5, 1973. Applicant: TRANSPORTES DEL NORTE MEXICO-LAREDO Y ANEXAS SERVICIO INTERNACIONAL, S.A. DE C.V., 271 Pte. Heroes, P.O. Box 2701, Monterrey, Nuevo Leon, Mexico. Applicant's representative: Mert Starnes, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, newspapers, and mail, in the same vehicles with passengers*, between the United States Immigrations and Customs Control Station, at Hidalgo, Tex., and the port of entry on the International Boundary line between the United States and Mexico located at Hidalgo, Tex.: From the United States Immigrations and Customs Control Station at Hidalgo over city streets to the port of entry on the International Boundary line between the United States and Mexico located at Hidalgo, and return over the same route, serving no intermediate points.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Antonio, Tex., or McAllen, Tex.

No. MC 107583 (Sub-No. 54), filed August 13, 1973. Applicant: SALEM

TRANSPORTATION CO., INC., 133-03 35th Avenue, Flushing, N.Y. 11354. Applicant's representative: George H. Rosen, 265 Broadway, P.O. Box 348, Monticello, N.Y. 12701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, express and newspapers* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than eleven passengers in any one vehicle, not including the driver thereof, and not including children under ten years of age who do not occupy a seat or seats; (a) between points in Middlesex County, N.J., on the one hand, and, on the other, New York, N.Y., and Philadelphia, Pa.; and (b) between points in Ocean, Atlantic and Cape May Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Westchester County, N.Y., Philadelphia and its commercial zone as defined by the Commission, Wilmington, Del., Baltimore, Md., and its commercial zone, as defined by the Commission, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Newark, N.J.

No. MC 138024 (Sub-No. 3), filed July 23, 1973. Applicant: MAYNARD ROTRUCK, an Individual, Route No. 3, Box 143D, Rawlings, Md. 21557. Applicant's representative: Maynard Rotruck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*, between Westernport, Md., and Cumberland, Md.: From Westernport, Md., over Maryland Highway 36, across the Potomac River to Piedmont, W. Va., to junction West Virginia Highway 46, thence over West Virginia Highway 46 to Keyser, W. Va., to junction U.S. Highway 220, thence north along U.S. Highway 220 to Cumberland, Md., and return over the same route serving all intermediate points.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 138962 (Sub-No. 1), filed August 3, 1973. Applicant: CHESAPEAKE TRANSIT, INC., 113 Rear Second Avenue, Chesapeake, Ohio 45619. Applicant's representative: John Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in buses, (1) Between the Villages of South Point (one mile west of the corporate limits of South Point at Leo's Carry Out) and Rome, Ohio: From Leo's Carry Out on Old Ohio Highway 52 to junction Charley Creek Road at Sybene, thence north over Charley Creek Road to the K-Mart Shopping Center, thence through the K-Mart Shopping Center and return to Charley Creek Road, thence south over Charley Creek Road to junction Old Ohio Highway 52, thence east over Old Ohio Highway 52 to Chesapeake and junction 6th Street, thence south over 6th Street and the 6th Street Bridge to Huntington, W. Va., and junction 5th Avenue, thence east over 5th Avenue to junction 9th Street, thence north over 9th Street to junction 3d Avenue, thence west over 3d Avenue to junction 6th Street, thence north over 6th Street and the 6th Street Bridge to Chesapeake, Ohio and junction Ohio Highway 7, thence over Ohio Highway 7 to the Village of Rome; and (2) Between the Villages of Rome and South Point (one mile west of the corporate limits of South Point at Leo's Carry Out), Ohio: From the Lawrence County Fair Grounds on Ohio Highway 243 at Rome to junction Ohio State Highway 7, thence in a northeasterly direction over Ohio Highway 7 to the East Elementary School, thence in a southwesterly direction over Ohio Highway 7 to junction 6th Street at Chesapeake, thence south over 6th Street and the 6th Street Bridge to Huntington, W. Va., and junction 5th Avenue, thence east over 5th Avenue to junction 9th Street, thence north over 9th Street to junction 3d Avenue, thence west over 3d Avenue to junction 6th Street, thence north over 6th Street and the 6th Street Bridge to Chesapeake, Ohio and junction Old Ohio Highway 52, thence west over Old Ohio Highway 52 to the Village of South Point (one mile west of the corporate limits of South Point at Leo's Carry Out), (1) and (2) above serving all intermediate points.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 138980, filed July 19, 1973. Applicant: ROBERT P. FULLER, an Individual, doing business as LAUREL TRANSIT LINES, P.O. Box 206, Cummings Hill Road, Matamoras, Pa. 18336. Applicant's representative: Jack G. Linshaw, 509 Broad Street, Milford, Pa. 18337. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, REGULAR ROUTE: Between Lords Valley (Blooming Grove Township, Pike County), Pa., and the Port Authority Bus Terminal in New York, N.Y.: From Lords Valley over Pennsylvania Highway 739 to junction New Jersey Highway 521, thence over New Jersey Highway 521 to junction U.S. Highway 206, thence over U.S. Highway 206 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction New Jersey Highway 3, thence over New Jersey Highway 3 to the Port Authority Bus Terminal at New York, N.Y. IRREGULAR ROUTE: Beginning and ending at Milford, Westfall, Dingman, Delaware, Blooming Grove, Lehman, Lackawaxen, and Shohola Townships; and Milford and Matamoras Boroughs, located in Pike County, Pa., and extending to points in New York, New Jersey, Maryland, Virginia, Delaware, Pennsylvania, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Scranton or Stroudsburg, Pa.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-22713 Filed 10-25-73;8:45 am]

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PART II

COST OF LIVING COUNCIL

■

PHASE IV PAY REGULATIONS AND QUESTIONS AND ANSWERS

■

Executive and Variable Compensation

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

Executive and Variable Compensation Regulations

On August 31, 1973, the Cost of Living Council published a notice of proposed rulemaking in the FEDERAL REGISTER (38 FR 23628). That notice proposed new rules for executive and variable compensation, to be effective on and after August 29, 1973. Interested persons were allowed to submit written comments and suggestions up to September 17, 1973. Comments and suggestions received after that date and prior to October 24, 1973, although not required to be considered under the terms of the notice, have been considered because of the short time prescribed in the notice.

The Cost of Living Council received approximately 140 written comments, representing the opinions of several hundred firms. The majority of commentators took issue with the stabilization policies reflected in the proposed rules. A number of commentators also raised technical questions and made suggestions for the resolution of problems that might arise under the proposed regulations. Following a careful reexamination of the issues, the Council has reaffirmed the basic policy determinations expressed in the proposed rules. However, the Council has made modifying policy changes and technical clarifications in the regulations set forth below in order to prevent the creation of certain inequitable situations.

The discussion which follows highlights certain differences between the proposed rules and the final regulations. It is not intended to cover all changes since many reflect style, format, and minor revisions of an insubstantial nature.

Policy changes. The first policy change relates to revision of the computation method prescribed in proposed § 152.130 (e). Under the proposed rule, incentive compensation payments, awards, or grants to members of an executive control group (ECG) were subjected to a formula that required application of an apportionment factor to the allowable amount for the plan or practice unit before adjustment for changes in composition of the executive control group. A number of commentators pointed out that application of that formula would in many cases result in a continuing reduction of bonus payments in firms which will retire relatively sizeable numbers of senior executives, because retiring executives are replaced by executives who may receive, initially, lower salaries than the salaries paid to those being retired. Accordingly, § 152.130(e)(1) has been modified to require apportionment to the executive control group after adjustment of the allowable amount for changes in the composition of the entire plan or practice unit. To implement this change the Council has deleted the proposed adjustment factor for the ECG in § 152.130 (e)(3) and from the formula in § 152.130 (e)(1).

A second policy change relates to the alternate rule for computing the limitation on wage and salary increases applicable to members of the ECG, set forth in § 152.130(d)(3). Under the proposed "special rule", a firm was permitted to elect to treat members of the ECG as if they constituted a separate appropriate employee unit. Pursuant to this rule, a firm was permitted to compute a base compensation rate for the ECG and make increases in such rate to members of the ECG within the general wage and salary standard in the manner permitted by the computation rules in effect during Phase II (Subpart E of 6 CFR Part 201). Applying the logic expressed in the comments with respect to attrition and turnover of members of the ECG that precipitated the first policy change discussed above, the Council determined that this alternate computation of increases in the base compensation rate with respect to a fiscal year should not include the method which allows projection of increases adjusted for changes in the composition of the group from the beginning to the end of the fiscal year. Accordingly, § 152.130 (d)(3) has been modified to restrict computation of increases in the average straight-time hourly rate to a method which in effect "freezes" composition of the group to that in existence on the fiscal base date. Thus, firms electing the alternative computation in § 152.130 (d)(3) are expressly required to use the method prescribed in 6 CFR § 201.57, and are prohibited from using the method set forth in 6 CFR § 201.56.

The final policy change involves the question of retroactivity as it affects plans and practices adopted under the Phase III rules for self-administration. The proposed rules required that new plans or practices which were adopted during Phase III, and which included members of the ECG as plan or practice participants, would be required to be submitted to the Council for approval and determination of a base year amount. In effect, this may have constituted a retroactive rescission of the Phase III rules which permitted the adoption of new plans or practices under the guidelines for self-administration and without requiring prior approval. The Council has determined that plans or practices involving ECG members finally and formally adopted after January 10, 1973, and communicated to plan or practice participants or management personnel responsible for administration of the plan or practice prior to August 29, 1973, will not be required to be submitted for prior approval, whether or not payments under such plans or practices have been made prior to August 29, 1973. These changes are reflected in paragraphs (b)(2)(iv), (c)(4)(iii), and (f)(3) of § 152.124 and comparable provisions of § 152.125. The Council in the proposed rules did not contemplate that new "qualified" stock option plans adopted under Phase III self-administration rules should be submitted for prior approval, and this point has been clarified in the final regulations.

Clarifying and technical changes. Section 152.121 *Scope.* Paragraph (a) of this section has been revised to make clear that all provisions in Part 130 and Part 201, relating to executive compensation (other than relevant provisions of § 201.76, and relating to fiscal years beginning prior to August 29, 1973), are superseded, effective August 29, 1973.

Section 152.123 *Executive salaries and job perquisites.* Paragraph (a) of this section has been revised to make clear that the section applies whether pay adjustments in the appropriate employee unit are subject to mandatory controls or self-administration.

Section 152.124 *Incentive compensation plans.* The policy change made with respect to plans previously put into effect by firms subject to self-administration during Phase III is discussed above and is reflected in paragraphs (b)(2)(iv), (c)(4)(iii), and (f)(3). Thus, incentive compensation plans adopted during Phase III prior to August 29, 1973, under the guidelines in § 130.14 and Appendix B to Part 130 need not be submitted for prior approval and valuation by the Council. Paragraph (f) of this section has been revised by adding a new paragraph (f)(2) to make clear that when determining an allowable amount for any subsequent plan year, under a plan in effect on November 13, 1971, the employer may select a base year different from the one selected in determining the allowable amount for an earlier subsequent plan year.

Section 152.125 *Incentive compensation practices.* The revisions and modifications made in this section have been made for substantially the same reasons as the revisions and modifications in § 152.124.

Section 152.126 *Certain stock options.* Paragraph (a) of this section has been revised to make clear that "qualified" stock option plans may operate under the rules for self-administration, whether or not any plan participants are members of an ECG. Paragraph (d)(2)(ii) of this section has been revised to make clear that an adjustment factor is available in determining the aggregate share limitation for subsequent plan years where a new plan has been adopted under § 201.78 of this title or under § 152.128. A new paragraph (e)(4) has been added to make clear the time when a stock option plan is considered to commence and terminate for purposes of the Economic Stabilization Program.

Section 152.128 *New or revised plans, practices, or programs.* Paragraph (a)(1) of this section has been revised to make clear that firms subject to self-administration which adopt new "qualified" stock option plans, including plans that cover plan participants who are members of an ECG, are not subject to mandatory application of the rules in this section. Such firms are, however, subject to the guidance with respect to new "qualified" stock option plans in § 152.135(c)(6) through (8).

Section 152.129 *New organizations and changes in organizational form.* The change in paragraph (a)(1) of this section is made for the same reason as the change in § 152.128(a)(1).

Section 152.130 *Executive control groups.* This section has been substantially revised. Most of the changes are of a clarifying or technical nature, designed to resolve numerous problems raised by the commentators and to clarify the Council's intent in the proposed rules. New paragraph (j) has been added to make clear that no provision in § 152.130 (including the election of the alternative computation in § 152.130(d)(3) for the limitation on salary increases in the ECG) has any effect on the composition of an appropriate employee unit or the computation of salary increases in an appropriate employee unit under any circumstances. The ECG limitations are in addition to any other limitations imposed on the appropriate employee unit under the appropriate rules for self-administration or mandatory controls. Thus, compensation paid to a member of an ECG is subject to two mutually independent sets of rules. New paragraph (k) has been added to provide illustrations as to the application of ECG rules.

A number of comments were received concerning the scope of the ECG rules. Paragraph (a) of § 152.130 has been revised to make clear that the ECG rules apply to pay adjustments made to members of an ECG in any firm, whether the firm is subject to mandatory controls or self-administration, unless the pay adjustments are exempted under § 152.31, 152.32, or 152.41. Therefore, the wages and salaries of a U.S. citizen who resides and is employed outside the United States would not be included with other officer and employee director salaries in complying with the limitations imposed under § 152.130. This point has been further clarified under the special rule prescribed in § 152.130(b)(2)(iii).

Composition of the ECG. Paragraph (b) of § 152.130, relating to designation of an ECG, has been revised to cover several questions raised by commentators concerning ECG membership. Thus, it has been made clear that officers of a firm are members of the ECG regardless of salary or remuneration. (See the discussion below concerning the definition of "officer" in § 152.130(c)(1).) If a firm is not incorporated it will be required to designate an executive control group even if only one of its employees performs duties corresponding to officers' duties and receives wages and salaries for the performance of such duties. However, if none of the persons performing such duties receives wages and salaries, the firm will not be required to designate an executive control group.

Paragraph (c)(1) of § 152.130 has been revised to make clear that not all persons who may be considered "officers" for some purposes are necessarily to be included as members of the ECG. An underlying stabilization objective in the designation of an ECG is to restrict its membership to top management executives in a firm, who are those with primary corporate responsibilities. If a firm is required to file a proxy statement under the rules of the U.S. Securities and Exchange Commission, the fact that the firm elects to report remuneration of employees who are not required to be included in the report does not mean that such employees are members of the ECG. Further, in banks, insurance companies, and other firms, the ECG does not ordinarily include employees (regardless of title) whose duties principally involve the rendering of services to selected clients or customers of the firm.

New paragraph (c)(2) of § 152.130 has been added to define "employee director" and to clarify the status of those persons who are directors of a parent, but whose salaries are paid by an affiliated entity rather than the parent.

Other ECG definitions. The definition of "base period" in paragraph (c)(6)(i) of § 152.130 has been revised at the request of commentators to provide a clarifying rule that covers situations where the period in which payments under a plan or practice have been made might be fewer than the 4 consecutive years prior to November 14, 1972.

The definition of "firm" has been revised in § 152.130(c)(7). Individuals (who may be considered "firms" for other stabilization purposes) and State and local governments are not required to designate an ECG. Accordingly, any agency or instrumentality of a State or local government, including public schools, colleges, universities, and libraries, are not required to designate an ECG.

In the proposed rules, as originally published, the definition of "Affiliated group of entities" contained a typographical error in proposed § 152.130(c)(10). A correction notice was issued by the FEDERAL REGISTER on October 15, 1973 (38 FR 28572), and the definition appears as corrected in new paragraph (c)(8) of § 152.130.

A number of comments were received asking for clarification of the definition of "parent" in proposed § 152.130(c)(11). Under the revised definition in new § 152.130(c)(9), it is contemplated that an affiliated group of entities may generate more than one ECG. For example, where a corporate parent and its affiliated corporate subsidiary are both issuers of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, both such corporate entities will be treated as "parents" within the meaning of § 152.130(c)(9), and each shall separately designate an ECG.

The status of United States subsidiaries of foreign entities has also been clarified. Accordingly, a domestic sales corporation, which distributes products manufactured by its foreign corporate parent outside the United States, shall be treated as a "parent" and shall be required to designate an ECG. In addition, the Council contemplates that a subsidiary may be required to designate an ECG separate from its controlling parent, if the management and policies of such subsidiary are directed by separate officers and a separate board of directors without active continuous participation by the controlling corporate parent.

Salary limitations in the ECG. Proposed paragraph (d) of § 152.130 was the subject of many comments and questions. Accordingly, a number of clarifying changes have been made. In paragraph (d)(2)(ii)(A) of § 152.130, a sentence has been added to make clear that temporary vacancies in the ECG expected to be filled within a reasonable time do not result in deletions from the ECG. As indicated above, paragraph (d)(3) of § 152.130 has been modified to reflect a policy change concerning the alternative computation. In order to make clear how the alternative computation is to be applied, the appropriate provisions of Subpart E of Part 201 of this title have been incorporated by reference and have been made mandatory in § 152.130(d)(3), notwithstanding the fact that such provisions otherwise serve only as guidance to firms subject to self-administration.

Paragraph (d)(4) of § 152.130 has been revised to make clear that excess amounts of incentive compensation in the ECG are permitted to "spill over" and be charged as wage and salary increases where the plan or practice unit and the appropriate employee unit are coextensive and where "spill-over" is otherwise permitted by any other regulation or order under the Economic Stabilization Program. However, amounts "spilled over" are not permitted to be treated as part of base salaries for purposes of computing the average group salary rate for a succeeding fiscal year, whether the general limitation on the average group salary rate or the alternative computation method is applied. The example in proposed paragraph (d)(4)(ii) has been removed and reinserted in paragraph (k) of § 152.130 as Example (2).

A new paragraph (d)(5) has been added to make clear that the base salary of any member of an ECG shall be deemed to include the salaries received by such member with respect to all positions occupied by him in the firm (or, in the case of an affiliated group of entities, with respect to all positions occupied in all such entities).

A new paragraph (d)(6) has been added to clarify the status of an officer whose salary is determined under a contract in existence on November 13, 1971, that has not been modified or extended since that date. Such officers are to be excluded from the computation of the limitation on salary increases in the ECG whether the average group salary rate or the alternative base compensation rate method is used.

Bonus limitation in the ECG. As indicated above, paragraph (e)(1) of § 152.130 has been modified to reflect a policy change in applying the formula. A new paragraph (e)(3) has been added to make clear that the limitations in paragraph (e)(1) of § 152.130 apply separately to each incentive compensation

plan or practice administered by a firm (or the affiliated entities within a firm) which affects a member of an ECG. In addition, a new paragraph (e)(4) has been added to § 152.130 to clarify the application of the ECG apportionment factor to incentive compensation payments in situations where membership in a plan unit and an appropriate employee unit are coextensive and "spillover" of excess payments is permitted to be charged as an increase in the average group salary rate or the alternative base compensation rate.

Because these regulations are essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, and Executive Order Nos. 11695 and 11730, the Council finds that good cause exists for making these regulations effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Public Law 92-210, 85 Stat. 743; Public Law 93-28, 87 Stat. 27; E. O. 11695, 38 FR 1473; E. O. 11730, 38 FR 19345; Cost of Living Council Order No. 4, 38 FR 1489.)

In consideration of the foregoing, Part 152 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective August 29, 1973.

Issued in Washington, D.C., this 25th day of October 1973.

JOHN T. DUNLOP,
Director.

In 6 CFR Part 152, the table of contents is amended by adding the listings of new Subpart K and Part 152 is amended by adding the provisions of new Subpart K as set forth below.

Subpart K—Executive and Variable Compensation

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152.121 Scope.
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152.123 Executive salaries and job perquisites.
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152.132 Qualified stock bonus plans.
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Subpart K—Executive and Variable Compensation

§ 152.121 Scope.

(a) *Purpose.*—The purpose of this subpart is to provide rules and standards to stabilize items of executive and variable compensation whether or not payable to an executive. This subpart provides standards for self-administration of those pay adjustments that are subject to the provisions of subpart B of this part. This subpart also provides standards which are to be applied with respect to pay adjustments subject to mandatory controls under this part. Further, this subpart establishes special rules which are to be applied to certain types of employees, without regard to industry. Except as provided in § 152.126 (a)(2), the provisions of Subpart F of Part 201 of this title and all provisions in Part 130 of this chapter relating to executive and variable compensation are superseded, effective August 29, 1973.

(b) *Conflict with other provisions.*—To the extent that any provision of this title is inconsistent with the provisions of this subpart, the provisions of this subpart shall control. Thus, in the area of executive base salaries and job perquisites only those existing contracts meeting the requirements of § 152.122(c) and in the area of incentive compensation plans and practices only those existing contracts meeting the requirements of § 152.122(c) and pay practices previously set forth meeting the requirements of § 152.122(f) shall be allowed to operate under the terms and conditions imposed under § 201.35 of this title.

(c) *Exception.*—The provisions of this subpart are not applicable to pay adjustments pursuant to and shall not affect the provisions of a collective bargaining agreement.

(d) *Exclusions inapplicable.*—The exclusions from adjustment computations set forth in § 201.60 of this title are inapplicable to any payment, award, or grant pursuant to an incentive compensation plan or practice or pursuant to a sales or commission plan or practice or production incentive program referred to in § 152.127, even if such payment, award, or grant is required to be charged as a wage and salary increase.

§ 152.122 Definitions.

For purposes of this subpart, the term—

(a) "Base salary" means cash remuneration paid, whether currently or deferred, to an employee by an employer on account of the performance of services.

(b) "Executive compensation" includes base salary, job perquisites, and incentive compensation.

(c) "Existing contract" means a contract with respect to employment in effect on November 13, 1971, all the elements of which have been reduced to a writing which has been signed by the employee and the employer prior to November 14, 1971.

(d) "Incentive compensation" includes the following items: Bonuses (whether payable in cash or other property); stock options; phantom stock awards (including both dividend and share units); performance share awards; employer contributions to stock purchase plans or stock bonus plans not qualified under section 401(a) of the Code or the regulations thereunder; and employer contributions to profit-sharing plans which fail to meet the requirements of section 401(a) of the Code. This term, however, does not include employer contributions to profit-sharing plans or stock bonus plans which meet the requirements of section 401(a) of the Code.

(e) "Job perquisite" means any item paid or furnished to or on behalf of an employee by an employer on account of the performance of services including, but not limited to, such items as reimbursement or payment by an employer of country club membership fees, dues, or other similar items; reimbursement or payment by an employer of uninsured medical expenses which are not covered by the employer's usual insurance program with respect to such expenses; reimbursement or payment by an employer for financial consulting or advisory services relating to an employee's personal financial affairs; the personal use of an automobile furnished by an employer; and payment by an employer for or in-kind furnishing of housing; and other such similar items.

(f) "Pay practice previously set forth" means an incentive compensation plan or practice in effect on November 13, 1971, which meets all the following requirements—

(1) The plan or practice had been communicated to the affected employees;

(2) The aggregate amount of the payment or award cannot be increased or withheld in its entirety by the exercise of any discretion;

(3) The aggregate amount of the payment or award is determined by a definite method or clear formula; and

(4) The definite method or clear formula is applied only to a wage or salary amount on a percentage or other similar basis without reference to profits, earnings, or any factor or item other than the actual wage or salary amount.

(g) "Performance share plan" means a plan—

(1) Pursuant to which phantom (or restricted) shares of employer stock are awarded to plan participants to be earned out and paid over (in stock and/or cash) at the end of an award period if a predetermined performance objective (or objectives) is achieved and a service requirement met;

(2) Which is approved by the employer's stockholders within 12 months of its adoption if awards are to be made in shares of stock;

(3) Which establishes a performance objective (or objectives) that adequately recognizes stockholders' interests;

(4) Which provides an earnout period of at least three years; and

(5) Which stipulates a maximum number of shares that may be distributed under the plan.

(h) "Plan, practice, or program unit" means the employees covered by an incentive compensation plan or practice, a sales or commission plan or practice, or a production incentive program.

(i) "Plan, practice, or program year" means the 12-month period with respect to which an incentive compensation plan or practice, a sales or commission plan or practice, or a production incentive program operates.

(j) "Wages and salaries" means the same as under § 152.2 except that items constituting incentive compensation shall not be treated as wages and salaries unless otherwise provided in this subpart.

§ 152.123 Executive salaries and job perquisites.

(a) *In general.*—Increases in executive base salaries paid to or on behalf of and job perquisites paid or furnished to or on behalf of the employees in an appropriate employee unit during any control year shall be subject to the general wage and salary standard, whether pay adjustments in such unit are subject to mandatory controls or self-administration under the provisions of this part.

(b) *Deferred payments.*—(1) *Items deferred from an earlier year.*—An item of base salary paid to the employees in an appropriate employee unit during any control year which was earned by any such employees during an earlier control year (or if not during a control year, during the applicable 12-month period beginning on November 14 and ending on November 13) shall not be considered as an item of base salary for such employees for the control year during which such item is paid.

(2) *Items deferred to a later control year.*—An item of base salary paid to the employees in an appropriate employee unit during any control year shall include all such items which were earned by all such employees during such control year.

(3) *Definition.*—For purposes of this paragraph, an item is considered as being "earned" during the control year in which services are performed giving rise to the obligation to pay for the performance of such services whether or not such obligation is contingent upon the performance of future services or any other condition or restriction (including, but not limited to, an agreement not to compete).

(c) *Valuation of items constituting job perquisites.*—The amount of any job perquisite shall be determined by computing:

(1) The employer's current expenditure where such expenditure constitutes the only cost of the item; otherwise

(2) The reasonable cost of providing the item, to be determined from all the facts and circumstances involved.

§ 152.124 Incentive compensation plans.

(a) *Applicability.* (1) *Persons subject to this section.* (i) *Firms subject to self-administration.*—The provisions of this section should be used as guidance in the administration of incentive compensation plans by firms subject to self-administration under the provisions of subpart B of this part.

(ii) *Firms subject to mandatory controls.*—This section provides mandatory rules applicable to the administration of incentive compensation plans by firms subject to mandatory controls under the provisions of this part.

(iii) *Executive control groups.*—This section provides mandatory rules that are to be applied in determining the amounts of payments, awards, or grants under incentive compensation plans that may be made to members of an executive control group subject to the provisions of § 152.130.

(2) *Payments, awards, and grants subject to this section.*—The provisions of this section are applicable to—

(i) Payments, awards, or grants made on or after August 29, 1973, and

(ii) Payments, awards, or grants made with respect to plan years which end on or after August 29, 1973.

(3) *Stock options.*—The provisions of this section are not applicable to stock options subject to the provisions of § 152.126, but are applicable to stock options subject to the provisions of § 152.131.

(b) *In general.* (1) *Plans in effect on November 13, 1971.*—Subject to the provisions of this section, an employer having an established written plan with respect to items of incentive compensation in effect on November 13, 1971, where the aggregate maximum amount of incentive compensation under the plan is determined according to a definite method or clear formula, may continue to administer such a plan providing the following conditions are met—

(i) There has been a payment prior to November 14, 1971, under the plan with respect to any one of the last 3 plan years ending prior to November 14, 1971;

(ii) Administration of the plan (including application of the definite method or clear formula) is clearly in accordance with all conditions and limitations expressed therein (other than those terms and conditions as may be restricted by this section); and

(iii) Administration of the plan is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

(2) *Plans established on or after November 14, 1971.*—An employer having an incentive compensation plan

(i) Described in § 152.128(d) (with respect to adoption of new plans) and approved by the Council pursuant to § 152.128,

(ii) Described in § 152.129(b) (with respect to plans of new organizations) and reported to the Council pursuant to § 152.128,

(iii) Approved by or reported to the Pay Board or Council in accordance with the provisions of § 201.78 or § 201.79 of this title, then in effect, as applicable, or

(iv) Adopted or revised and put into effect in accordance with the provisions of § 130.14 and Appendix B to Part 130 of this chapter, then in effect,

shall administer such a plan subject to the provisions of paragraphs (b), (c), (d), and (f) of this section (but not including the condition contained in paragraph (b)(1)(i) of this section).

(3) *Certain other plans.*—An employer having an incentive compensation plan described in § 152.128(e) (with respect to certain expiring plans) shall administer such a plan subject to the provisions of paragraphs (b), (c), (d), and (f) of this section (but not including the condition contained in paragraph (b)(1)(i) of this section).

(c) *Computation of allowable amount.* (1) *First plan year.* (i) *Plans described in paragraph (b)(1) of this section.*—The allowable amount of any item of incentive compensation granted to the employees in a plan unit under a plan described in paragraph (b)(1) of this section with respect to the first plan year for which payment is made on or after November 14, 1971, shall not exceed an amount determined as follows: the base year amount plus 5.5 percent of such base year amount.

(ii) *Plans described in paragraph (b)(2) of this section.*—The allowable amount of any item of incentive compensation granted to the employees in a plan unit under a plan described in paragraph (b)(2) of this section with respect to the plan year consisting of the first consecutive 12-month period under which the plan operates shall not exceed the base year amount.

(2) *Certain plan years with respect to plans operating under § 201.35.*—The allowable amount of any item of incentive compensation granted to the employees in a plan unit under a plan pursuant to an existing contract which operates under § 201.35 of this title shall not exceed the amount determined pursuant to the definite method or clear formula of the plan with respect to the plan year.

(3) *Subsequent plan years.*—The allowable amount of any item of incentive compensation granted to the employees in a plan unit with respect to a plan described in paragraph (b) (1), (2), or (3) of this section with respect to any plan year other than a plan year described in paragraph (c) (1) or (2) of this section is equal to the product of:

(i) The allowable amount described in paragraph (c) (1) or (2) of this section with respect to such plan, multiplied by 105.5 percent for each year of operation subsequent to the first plan year described in paragraph (c)(1) of this section, or for each year subsequent to the last plan year during which the plan was allowed to operate under § 201.35; and

(ii) The adjustment factor described in paragraph (c)(5) of this section.

For purposes of paragraph (c)(3)(i) of this section the allowable amount with respect to any plan described in paragraph (b)(3) of this section shall be such amount which was granted with

respect to the last plan year such plan operated under § 201.35.

(4) *Definition.*—For purposes of this paragraph, the term "base year amount" means—

(i) In the case of a plan described in paragraph (b)(1) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted to the employees in a plan unit with respect to one of the last 3 plan years ending prior to November 14, 1971, for which there has been a payment under the plan prior to November 14, 1971;

(ii) In the case of a plan described in paragraph (b)(2) (i) or (iii) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation established by the Pay Board or Council as the amount allowed to be granted with respect to the first consecutive 12-month period under which the plan operates; and

(iii) In the case of a plan described in paragraph (b)(2) (ii) or (iv) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted under the plan with respect to the first consecutive 12-month period under which the plan operates, provided such amount is not unreasonably inconsistent with the standards and goals of the Economic Stabilization Program.

(5) *Adjustment for change in composition of plan unit.* (i) *Method.*—The adjustment factor indicated in paragraph (c)(3) of this section with respect to the change in the composition of any plan unit shall be a fraction, the numerator of which is the sum of the base unit salary plus base unit salary additions, less base unit salary deletions, and the denominator of which is the base unit salary.

(ii) *Definitions.*—For purposes of paragraph (c)(5)(i) of this section, the term—

(A) "Base unit salary" means the aggregate of the base salaries of all employees in the plan unit on the last day of the base year with respect to the plan at the annual salary rate in effect with respect to each employee on such day;

(B) "Base unit salary additions" means the aggregate of the base salaries of all employees in the plan unit (except those employees added to such unit solely on account of a merger or other type of acquisition occurring on or after November 14, 1971) on the last date of the plan year for which the adjustment is being made who were not in the plan unit on the last day of the base year with respect to the plan at the annual salary rate in effect with respect to each employee on the last day of the plan year for which the adjustment is being made;

(C) "Base unit salary deletions" means the aggregate of the base salaries of all individuals who were in the plan unit on the last day of the base year with respect to the plan but not in the plan unit on the last day of the plan year for which the adjustment is being made at the annual salary rate in effect with respect to each such individual on the last day of the base year; and

(D) "Base year" means—

(*1*) With respect to a plan described in paragraph (b)(1) or (2) of this section the plan year used to determine the base year amount with respect to such plan; and

(*2*) With respect to a plan described in paragraph (b)(3) of this section the last plan year the plan operated under § 201.35 of this title.

(d) *Rules with respect to computation of allowable amount.* (1) *Deferred or delayed payments.* (i) *Items deferred or delayed from an earlier plan year.*—For purposes of computing the allowable amount of any item of incentive compensation granted with respect to any plan year, an item of incentive compensation paid to the employees in a plan unit during any plan year which was granted to any such employees with respect to an earlier plan year shall not be considered as an item of incentive compensation for such employees for the plan year during which such item is paid.

(ii) *Items deferred or delayed to a later plan year.*—For purposes of computing the allowable amount of any item of incentive compensation granted with respect to any plan year, an item of incentive compensation granted to the employees in a plan unit with respect to any plan year which is deferred or delayed to a later plan year shall be considered as an item of incentive compensation with respect to such employees for the plan year during which such item is granted.

(iii) *Granted with respect to a plan year.*—For purposes of this section, an item is granted with respect to the plan year for which the amount generated under the plan is computed whether or not such amount is paid during that year.

(iv) *Item deferred or delayed.*—For purposes of this section, an item shall be considered deferred or delayed if it is paid after the close of the plan year with respect to which granted within the meaning of paragraph (d)(1)(iii) of this section.

(2) *Amounts in excess of allowable amount.* (i) *General.*—Except as provided in paragraph (d)(2)(ii) of this section, a firm shall not pay, and employees shall not receive, without the prior approval of the Council, an amount of any item of incentive compensation in excess of the allowable amount determined pursuant to this section. The preceding sentence shall serve as guidance with respect to members of a plan unit who are not members of an executive control group (determined pursuant to § 152.130) and who are subject to self-administration under the provisions of subpart B of this part.

(ii) *Coextensive appropriate employee unit and plan unit.* (A) *Coverage.*—The provisions of this paragraph (d)(2)(ii) of this section are applicable to the grant of an item of incentive compensation only where the employee membership of the plan unit and the membership of one appropriate employee unit are coextensive.

(B) *Excess charged as wage and salary increase.*—If the amount of any item of incentive compensation granted pursuant to a plan described in paragraph (b) of this section to which paragraph (c)(1)(ii) of this section does not apply is in excess of the allowable amount of such item with respect to any plan year determined pursuant to the rules contained in paragraph (c) of this section, such excess shall be deemed to be an increase in wages and salaries with respect to the appropriate employee unit during the control year when paid to such employees in such appropriate employee unit. For purposes of this section, if such amount is not paid within 6 months after the end of the plan year, then such amount shall be considered paid on the last day of the sixth month after the end of such plan year.

(C) *Prenotification and reporting.*—The amount of any excess considered as an increase in wages and salaries shall be considered as a pay adjustment for purposes of the prenotification and reporting requirements of this title with respect to such appropriate employee unit when such amount is considered as wages and salaries.

(D) *Reduction of maximum permissible increase.*—Any amount in excess of an allowable amount as described in this paragraph (d)(2)(ii) of this section shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to the appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to such appropriate employee unit by such amount for the control year such amount is paid.

(E) *Rule with respect to phantom stock awards.*—For purposes of determining the amount of any excess with respect to phantom stock awards, each phantom dividend or share unit shall be deemed to be an actual share of stock not subject to any restriction.

(3) *Valuation of items of incentive compensation.*—The amount of an award shall be determined as follows—

(i) For phantom stock awards: In dividend or share units;

(ii) For performance share awards: Subject to prior approval pursuant to § 152.128 (except in the case of a plan previously approved pursuant to § 201.78 or put into effect pursuant to § 130.14 and Appendix B to Part 130 of this chapter), in dollars in an amount equal to the present fair market value of the stock to be awarded assuming attainment of at least 75 percent of the performance goal (or such other percentage or amount as established by the Council) allocated evenly over the performance period under the plan;

(iii) For bonuses awarded in stock: In dollars in an amount equal to the fair market value of such stock at the time of the award regardless of any conditions or restrictions, less the amount (if any) paid for such stock by the employee;

(iv) For bonuses awarded in property other than stock: In dollars in an

amount equal to the fair market value of such property at the time of the award, regardless of any conditions or restrictions, less the amount (if any) paid for such property by the employee;

(v) For employer contributions in money such as contributions to stock bonus plans or profit sharing plans which do not meet the requirements of Section 401(a) of the Code, and stock purchase plans: In dollars in an amount equal to the employer's contribution, regardless of any deferral in time of the employee's rights under such a plan or any other condition or restriction;

(vi) For employer contributions in property other than money (including the right to purchase property, such as stock, at less than the fair market value) to plans described in paragraph (d)(3)(v) of this section: In dollars in an amount equal to the fair market value of such property (less the amount of any employee contributions, if any), regardless of any conditions or limitations, any deferral in time of the employee's rights under the plan, or any other condition or restriction. Stock options not within the provisions of § 152.126 shall be valued in accordance with the provisions of § 152.131.

(e) *Rules with respect to certain plans.*—(1) Any plan described in paragraph (b)(1) of this section which fails to meet the condition of having made the payment or award required under such paragraph shall be considered as a new plan subject to the provisions of § 152.128(d) and paragraphs (b) through (d) of this section (but not including the condition contained in paragraph (b)(1)(i) of this section).

(2) Any plan described in paragraph (b)(1) of this section which meets the definition of § 152.122 (c) or (f) and operates under § 201.35 shall not operate under such paragraph (b)(1).

(3) Any plan described in paragraph (e)(2) of this section which no longer operates under § 201.35 shall be considered as an expired incentive compensation plan within the meaning of § 152.128 (e) and shall operate under the applicable provisions of this subpart.

(f) *Special rules.*—(1) *Amounts in excess of plan amounts.*—If the amount of payment, award, or grant of any item of incentive compensation exceeds the amount determined by application of the definite method or clear formula in the plan described in paragraph (b) of this section (even if such amount is less than the allowable amount for the plan year involved), then the total amount of such payment, award, or grant shall be considered to be pursuant to the terms of a new, modified, or replacement plan or practice subject to the provisions of § 152.128 or § 152.135, as applicable.

(2) *Selection of base year.*—Notwithstanding any other provision of this section, in the case of a plan described in paragraph (b)(1) of this section, the selection of a base year with respect to any one subsequent plan year shall not prevent the selection of a different base year with respect to another subsequent plan year.

(3) *Plans adopted or revised pursuant to § 130.14 of this chapter.*—For purposes of paragraph (b)(2)(iv) of this section, a plan may be considered adopted or revised and put into effect in accordance with the provisions of § 130.14 and Appendix B to Part 130 of this chapter only if it can be documented that the adoption or revision of such plan was decided finally and formally in accordance with established procedures, and if such decision was communicated to the management personnel responsible for implementing the plan or to the plan participants prior to August 29, 1973. It is not necessary that any payments, awards, or grants shall have been made prior to such date. Payments, awards, or grants pursuant to such a plan shall remain subject to review by the Council, which may by order direct the repayment of all or a portion of such payments, awards, or grants or impose such other requirements or conditions on the operation of the plan as are reasonable and appropriate to accomplish the purposes of the Economic Stabilization Program.

(g) *Application illustrated.*—The provisions of paragraph (c)(3) of this section (relating to subsequent plan years) may be illustrated by the following example:

Example: The base year amount for Corporation X is $100,000. For the first plan year the allowable amount, computed in accordance with paragraph (c)(1) of this section, was $105,500. Assuming no base unit salary additions or deletions requiring the use of the adjustment factor described in paragraph (c)(5), the allowable amount for the second plan year would be $111,303 ($105,500×105.5%). Again assuming no base unit salary additions or deletions, the allowable amount for the third plan year would be $117,424 ($111,304×105.5%).

§ 152.125 Incentive compensation practices.

(a) *Applicability.* (1) *Persons subject to this section.* (i) *Firms subject to self-administration.*—The provisions of this section should be used as guidance in the administration of incentive compensation practices by firms subject to self-administration under the provisions of subpart B of this part.

(ii) *Firms subject to mandatory controls.*—This section provides mandatory rules applicable to the administration of incentive compensation practices by firms subject to mandatory controls under the provisions of this part.

(iii) *Executive control groups.*—This section provides mandatory rules that are to be applied in determining the amounts of payments, awards, or grants under incentive compensation practices that may be made to members of an executive control group subject to the provisions of § 152.130.

(2) *Payments, awards, or grants subject to this section.*—The provisions of this section are applicable to—

(i) Payments, awards, or grants made on or after August 29, 1973; and

(ii) Payments, awards, or grants made with respect to practice years which end on or after August 29, 1973.

(3) *Stock options.*—The provisions of this section are not applicable to stock options subject to the provisions of § 152.126, but are applicable to stock options subject to the provisions of § 152.131.

(b) *In general.* (1) *Practices in effect on November 13, 1971.*—Subject to the provisions of this section, an employer having a practice (other than a plan described in § 152.124(b)) with respect to items of incentive compensation in effect on November 13, 1971, may continue to administer such a practice providing the following conditions are met—

(i) There has been a payment prior to November 14, 1971, under the practice as a matter of custom or habit with respect to two of the last 3 practice years ending prior to November 14, 1971 (or if the practice has been in existence less than 2 practice years ending prior to November 14, 1971, then with respect to 1 practice year ending prior to such date);

(ii) Administration of the practice is clearly in accordance with demonstrated past custom or habit (other than those customs or habits as may be restricted by this section); and

(iii) Administration of the practice is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

For purposes of paragraph (b)(1)(ii) and (iii) of this section, where the aggregate maximum amount of incentive compensation under a practice is determined according to a definite method or clear formula, such method or formula shall continue to apply. Where the aggregate maximum amount of incentive compensation under a practice is not so determined the following formula shall be deemed to apply with respect to such a practice: The base year amount with respect to such practice divided by profits of the employer prior to Federal taxes with respect to such base year. The formula so deemed to apply shall continue to apply for purposes of computing the aggregate amount of incentive compensation. If the amount of payment, award, or grant of any item of incentive compensation pursuant to a practice described in this paragraph exceeds the amount determined by application of the formula set forth in this paragraph (even if such amount is less than the allowable amount for the practice year involved), then the total amount of such payment, award, or grant shall be considered pursuant to the terms of a new, modified, or replacement practice subject to the provisions of § 152.128 or § 152.135, as applicable.

(2) *Practices established on or after November 14, 1971.*—An employer having an incentive compensation practice—

(i) Described in § 152.128(d) (with respect to adoption of new practices) and approved by the Council pursuant to § 152.128,

(ii) Described in § 152.129(b) (with respect to practices of new organizations) and reported to the Council pursuant to § 152.129,

(iii) Approved by or reported to the Pay Board or Council in accordance with the provisions of § 201.78 or § 201.79 of this title, then in effect, as applicable, or

(iv) Adopted or revised and put into effect in accordance with the provisions of § 130.14 and Appendix B to Part 130 of this chapter, then in effect,

shall administer such a practice subject to the provisions of paragraphs (b) through (d) of this section (but not including the condition contained in paragraph (b)(1)(i) of this section).

(3) *Certain other practices.*—An employer having an incentive compensation practice described in § 152.128(e) (with respect to certain expiring practices) shall administer such a practice subject to the provisions of paragraphs (b) through (d) of this section (but not including the condition contained in paragraph (b)(1)(i) of this section).

(c) *Computation of allowable amount.* (1) *First practice year.* (i) *Practices described in paragraph (b)(1) of this section.*—The allowable amount of any item of incentive compensation granted to the employees in a practice unit under a practice described in paragraph (b)(1) of this section with respect to the first practice year for which payment is made on or after November 14, 1971, shall not exceed an amount determined as follows: the base year amount plus 5.5 percent of such base year amount.

(ii) *Practices described in paragraph (b)(2) of this section.*—The allowable amount of any item of incentive compensation granted to the employees in a practice unit under a new or revised practice described in paragraph (b)(2) of this section with respect to the practice year consisting of the first consecutive 12-month period under which the practice operates shall not exceed the base year amount.

(2) *Certain practice years with respect to practices operating under § 201.35.*—The allowable amount of any item of incentive compensation granted to the employees in a practice unit under a practice pursuant to an existing contract which operates under § 201.35 of this title shall not exceed the amount determined pursuant to the definite method or clear formula of the practice.

(3) *Subsequent practice years.*—The allowable amount of any item of incentive compensation granted to the employees in a practice unit with respect to a practice described in any one of paragraphs (b)(1) through (3) of this section with respect to any practice year other than a practice year described in paragraph (c)(1) or (2) of this section is equal to the product of:

(i) The allowable amount described in paragraph (c)(1) or (2) of this section with respect to such practice multiplied by 105.5 percent for each year of operation subsequent to the first practice year described in paragraph (c)(1) of this section, or for each year subsequent to the last practice year in which the practice was allowed to operate under § 201.35; and

(ii) The adjustment factor described in paragraph (c)(5) of this section.

For purposes of paragraph (c)(3)(i) of this section, the allowable amount with respect to any practice described in paragraph (b)(3) of this section shall be such amount which was granted with respect to the last practice year such practice operated under § 201.35.

(4) *Definition.*—For purposes of this paragraph the term "base year amount" means—

(i) In the case of a practice described in paragraph (b)(1) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted to the employees in a practice unit with respect to one of the last 3 practice years ending prior to November 14, 1971, for which there has been a payment under the practice prior to November 14, 1971;

(ii) In the case of a practice described in paragraph (b)(2)(i) or (iii) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation established by the Pay Board or Council as the amount allowed to be granted with respect to the first consecutive 12-month period under which the practice operates; and

(iii) In the case of a practice described in paragraph (b)(2)(ii) or (iv) of this section, the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted under the practice with respect to the first consecutive 12-month period under which the practice operates, provided such amount is not unreasonably inconsistent with the standards and goals of the Economic Stabilization Program.

(5) *Adjustment for change in composition of practice unit.*—(i) *Method.*—The adjustment factor referred to in paragraph (c)(3) of this section with respect to the change in the composition of any practice unit shall be a fraction, the numerator of which is the sum of the base unit salary plus base unit salary additions, less base unit salary deletions, and the denominator of which is the base unit salary.

(ii) *Definitions.*—For purposes of paragraph (c)(5)(i) of this section, the term—

(*A*) "Base unit salary" means the aggregate of the base salaries of all employees in the practice unit on the last day of the base year with respect to the practice at the annual salary rate in effect with respect to each employee on such day;

(*B*) "Base unit salary additions" means the aggregate of the base salaries of all employees in the practice unit (except those employees added to such unit solely on account of a merger or other type of acquisition occuring on or after November 14, 1971) on the last day of the practice year for which the adjustment is being made who were not in the practice unit on the last day of the base year with respect to the practice at the annual salary rate in effect with respect to each employee on the last day of the practice year for which the adjustment is being made;

(*C*) "Base unit salary deletions" means the aggregate of the base salaries of all individuals who were in the practice unit on the last day of base year with respect to the practice but not in the practice unit on the last day of the practice year for which the adjustment is being made at the annual salary rate in effect with respect to each such individual on the last day of the base year; and

(*D*) "Base year" means—

(*1*) With respect to a practice described in paragraph (b)(1) or (2) of this section the practice year used to determined the base year amount with respect to such practice; and

(2) With respect to a practice described in paragraph (b)(3) of this section the last practice year the practice operated under § 201.35.

(d) *Rules with respect to computation of allowable amount.*—(1) *Deferred or delayed payments*—(i) *Items deferred or delayed from an earlier practice year.*—For purposes of computing the allowable amount of any item of incentive compensation granted with respect to any practice year, an item of incentive compensation paid to the employees in a practice unit during any practice year which was granted to any such employees with respect to an earlier practice year shall not be considered as an item of incentive compensation for such employees with respect to the practice year during which such item is paid.

(ii) *Items deferred or delayed to a later practice year.*—For purposes of computing the allowable amount of any item of incentive compensation granted with respect to any practice year, an item of incentive compensation granted to the employees in a practice unit with respect to any practice year which is deferred or delayed to a later practice year shall be considered as an item of incentive compensation for such employees for the practice year during which such item is granted.

(iii) *Granted with respect to a practice year.*—For purposes of this section, an item is granted with respect to the practice year for which the amount generated under the practice is computed whether or not such amount is paid during such year.

(iv) *Item deferred or delayed.*—For purposes of this section, an item shall be considered deferred or delayed if it is paid after the close of the practice year with respect to which granted within the meaning of paragraph (d)(1)(iii) of this section.

(2) *Amounts in excess of allowable amount.* (i) *General.*—Except as provided in paragraph (d)(2)(ii) of this section, a firm shall not pay and employees shall not receive, without the prior approval of the Council, an amount of any item of incentive compensation in excess of the allowable amount, determined pursuant to this section. The preceding sentence shall serve as guidance with respect to members of a practice unit who are not members of an executive control group (determined pursuant to § 152.130) and who are subject to self-administration under the provisions of subpart B of this part.

(ii) *Coextensive appropriate employee unit and practice unit.* (A) *Coverage.*—The provisions of this subdivision (ii) are applicable to the grant of an item of incentive compensation only where the employee membership of the practice unit and the membership of one appropriate employee unit are coextensive.

(B) *Excess charged as wage and salary increase.*—If the amount of any item of incentive compensation granted pursuant to a practice described in paragraph (b) of this section to which paragraph (c)(1)(ii) of this section does not apply is in excess of the allowable amount of such item with respect to any practice year determined pursuant to the rules contained in paragraph (c) of this section, such excess shall be deemed to be an increase in wages and salaries with respect to the appropriate employee unit during the control year when paid to such employees in such appropriate employee unit. For purposes of this section, if not paid within 6 months after the end of the practice year, then such amount shall be considered paid on the last day of the sixth month after the end of such practice year.

(C) *Prenotification and reporting.*—The amount of any excess considered as an increase in wages and salaries shall be considered as a pay adjustment for purposes of the prenotification and reporting requirements of this title with respect to such appropriate employee unit when such amount is considered as an increase in wages and salaries.

(D) *Reduction of maximum permissible increase.*—Any amount in excess of an allowable amount as described in paragraph (d)(2)(ii) of this section shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to the appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to such appropriate employee unit by such amount for the control year such amount is paid.

(E) *Rule with respect to phantom stock awards.*—For purposes of determining the amount of any excess with respect to phantom stock awards, each phantom dividend or share unit shall be deemed to be an actual share of stock not subject to any restriction.

(3) *Valuation of items of incentive compensation.*—Items of incentive compensation shall be valued according to the provisions of § 152.124(d)(3.

(e) *Rules with respect to certain practices.*—(1) Any practice described in paragraph (b)(1) of this section which fails to meet the condition of having made the payment or award required under such paragraph shall be considered as a new practice subject to the provisions of § 152.128(d) and paragraphs (b) through (d) of this section (but not including the condition contained in paragraph (b)(1)(i) of this section).

(2) Any practice described in paragraph (b)(1) of this section which meets the definition of § 152.122 (c) or (f) and operates under § 201.35 shall not operate under such paragraph (b)(1).

(3) Any practice described in paragraph (b)(2) of this section which no longer operates under § 201.35 shall be considered as an expired incentive compensation practice within the meaning of § 152.128(e) and shall operate under the applicable provisions of this subpart.

(f) *Special rules.*—(1) *Selection of base year.*—In the case of a practice described in paragraph (b)(1) of this section, the selection of a base year with respect to any one subsequent practice year shall not prevent the selection of a different base year with respect to another subsequent practice year.

(2) *Practices adopted or revised pursuant to § 130.14 of this chapter.*—For purposes of paragraph (b)(2)(iv) of this section, a practice may be considered adopted or revised and put into effect in accordance with the provisions of § 130.14 and Appendix B to Part 130 of this chapter only if it can be documented that the adoption or revision of such practice was decided finally and formally in accordance with established procedures, and if such decision was communicated to the management personnel responsible for implementing the practice or to the practice participants prior to August 29, 1973. It is not necessary that any payments, awards, or grants shall have been made prior to such date. Payments, awards or grants pursuant to such a practice shall remain subject to review by the Council, which may by order direct the repayment of all or a portion of such payments, awards or grants or impose such other requirements or conditions on the operation of the practice as are reasonable and appropriate to accomplish the purposes of the Economic Stabilization Program.

§ 152.126 Certain stock options.

(a) *Applicability.* (1) *Persons subject to this section.* (i) *Firms subject to self-administration.*—The provisions of this section should be used as guidance in the administration of stock option plans by firms subject to self-administration under the provisions of subpart B of this part, even if such plans apply to or affect members of executive control groups.

(ii) *Firms subject to mandatory controls.*—This section provides mandatory rules applicable to the administration of stock option plans by firms subject to mandatory controls under the provisions of this part.

(iii) *Executive control groups.*—Stock option plans subject to this section are not subject to the limitations on incentive compensation set forth in § 152.130, relating to executive control groups.

(2) *Plans subject to this section.*—The provisions of this section are effective with respect to fiscal years beginning on or after August 29, 1973. The provisions of § 201.76 (a) and (b) of this title remain applicable to fiscal years beginning prior to such date.

(b) *Certain existing stock options.*—Stock options granted to the employees in a plan unit in writing prior to the close of business on December 16, 1971, under a stock option plan adopted by an employer prior to November 14, 1971, and in effect on November 13, 1971, may be exercised. The grant of such options shall not count against the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year pursuant to paragraph (c)(1) or (d) of this section.

(c) *Stock options not deemed to be an increase in wages and salaries.* (1) *Grant.* (i) *Plan requirements.*—New stock options under a stock option plan adopted by an employer prior to November 14, 1971, and in effect on November 13, 1971, may be granted to the employees in a plan unit under such a stock option plan but only in writing provided that such plan—

(A) Is approved by the employer's stockholders within 12 months of its adoption;

(B) Stipulates a maximum number of shares to be made available for stock option grants;

(C) Establishes and maintains the option price of shares that may be issued at not less than 100 percent of the fair market value of such shares on the date of grant of options for such shares; and

(D) Is administered in accordance with the customary manner.

(ii) *Aggregate share limitation with respect to the fiscal year beginning prior to November 14, 1972.* The allowable number of shares that may be issued under new stock options granted during an employer's fiscal year which began prior to November 14, 1972, under a stock option plan described in paragraph (c)(1)(i) of this section which meets the requirements of (A) through (D) of that paragraph shall not exceed the number of shares determined as follows: The number of shares (adjusted to reflect stock splits and stock dividends) covered under stock options granted under such plan during the last 3 fiscal years of the employer ending prior to November 14, 1971, divided by 3; provided, however, if the plan was in effect on November 13, 1971, for at least 1 fiscal year of the employer ending prior to November 14, 1971, but less than 3 such fiscal years, the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year which began prior to November 14, 1972, shall not exceed the number of shares (adjusted to reflect stock splits and stock dividends) covered under stock options granted during the existence of the plan through the end of the fiscal year ending before November 14, 1971, that such plan was in existence divided by the number of such fiscal years;

(iii) *Aggregate share limitation with respect to fiscal years beginning on or after November 14, 1972.*—Except for fiscal years of an employer covered by paragraph (d) of this section, the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year beginning on or after November 14, 1972, under a stock option plan which meets the requirements of (A) through (D) of paragraph

(c)(1)(i) of this section shall not exceed the number of shares (adjusted to reflect stock splits and stock dividends) determined:

(A) By dividing the total number of shares covered under stock options granted under such plan prior to the close of business on December 16, 1971, by the number of fiscal years during which the plan operated prior to the close of business on December 16, 1971; and

(B) By multiplying the number determined in paragraph (c)(1)(iii)(A) of this section by a fraction, the numerator of which is the number of employees in the plan unit on the first day of the fiscal year with respect to which the allowable number of shares is determined and the denominator of which is the average number of employees in the plan unit during the fiscal years the plan operated prior to the close of business on December 16, 1971. The term "number of employees in the plan unit on the first day of the fiscal year" means the number of employees who held options during the immediately preceding fiscal year, less the number of employees who became ineligible to receive options during such preceding fiscal year because of termination or transfer, plus those employees to whom, in accordance with past practice, the employer intends to grant options during the fiscal year who were not eligible to receive option grants during the immediately preceding fiscal year because of tenure, position, salary level, or similar eligibility requirement. For purposes of computing the average number of employees in the plan unit, the plan unit shall be deemed to consist of all employees at the end of each fiscal year of the employer (or portion thereof) during which the plan operated (prior to the close of business on December 16, 1971) who held options granted under such plan or who exercised options which had been granted under such plan.

(2) *Exercise.*—New stock options covering shares within the applicable aggregate share limitations of this paragraph and paragraph (d) of this section under a stock option plan which meets the requirements of (A) through (D) of paragraph (c)(1)(i) of this section may be exercised by the employees in a plan unit under such a stock option plan.

(3) *Excess.*—Options for shares in excess of the aggregate share limitation with respect to new stock options granted during an employer's fiscal year determined according to the rules contained in paragraph (c)(1) of this section (or where applicable under paragraph (d) of this section) under a stock option plan which meets the requirements of (A) through (D) of paragraph (c)(1)(i) of this section shall not be granted without the prior approval of the Council pursuant to § 152.128 and options granted without such approval shall not be exercised unless prior approval has been obtained.

(d) *Rules for determining aggregate share limitation with respect to certain existing and new plans.*—(1) *Certain plans in effect on November 13, 1971.*—For purposes of determining the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year under a stock option plan described in paragraph (c)(1)(i) of this section if any plan was—

(i) In effect on November 13, 1971, and no stock options were granted during the life of the plan prior to the employer's fiscal year beginning on or after November 14, 1972, the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year beginning on or after November 14, 1972, shall not exceed 25 percent of the number of shares (adjusted to reflect stock splits and stock dividends) authorized for stock options at the time the plan was adopted, or, if amended to increase share authorization, at the time last amended. After such fiscal year, the aggregate share limitation, computed as though the plan were subject to the provisions of paragraph (d)(2)(ii) of this section shall apply.

(ii) In effect on November 13, 1971, for less than a full fiscal year of the employer, (A) the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year beginning prior to November 14, 1972, shall not exceed the greater of the number of shares (adjusted to reflect stock splits and stock dividends) subject to options actually granted prior to November 14, 1971, during such period of less than a full fiscal year, or 25 percent of the number of shares authorized for stock options during the life of the plan, and (B) the allowable number of shares (adjusted to reflect stock splits and stock dividends) that may be issued under new stock options pursuant to such plan during an employer's fiscal year beginning on or after November 14, 1972, shall be determined pursuant to the provisions of paragraph (d)(1)(i) of this section or shall be computed as though the plan were subject to the provisions of paragraph (d)(2)(ii) of this section, whichever is applicable.

(iii) In effect on November 13, 1971, for three or more fiscal years of the employer ending prior to November 14, 1971, and no stock options were granted during the 3 fiscal years ending before such date, (A) the allowable number of shares that may be issued under new stock options granted during an employer's fiscal year beginning prior to November 14, 1972, shall not exceed 25 percent of the number of shares (adjusted to reflect stock splits and stock dividends) authorized for stock options but not granted during the life of the plan; and (B) the allowable number of shares that may be issued under new stock options pursuant to such plan during an employer's fiscal year beginning on or after November 14, 1972, shall be determined pursuant to the provisions of paragraph (d)(1)(i) of this section or shall be computed as though the plan were subject to the provisions of paragraph (d)(2)(ii) of this section, whichever is applicable.

(2) *Plans approved pursuant to § 201.78 or § 152.128.*—The allowable number of shares that may be issued under new stock options granted under a stock option plan which is approved pursuant to § 201.78 or § 152.128 and which meets the requirements of (A) through (D) of paragraph (c)(1)(i) of this section shall be:

(i) For the first fiscal year grants are made pursuant to such plan approval the number of shares established by the Pay Board or Council as the aggregate share limitation.

(ii) For each subsequent fiscal year the aggregate share limitation for the first fiscal year multiplied by a fraction, the numerator of which is the number of employees in the plan unit on the first day of the fiscal year with respect to which the allowable number of shares is determined, and the denominator of which is the number of employees in the plan unit for the first fiscal year the plan operated. For the purposes of this computation the plan unit for the first fiscal year the plan operated shall be deemed to consist of all employees who held options at the end of, or exercised options during such fiscal year. The plan unit on the first day of the fiscal year with respect to which the allowable number of shares is determined shall be the plan unit for the first fiscal year the plan operated plus those employees that the employer intends to grant options to during the fiscal year described in this paragraph who were not eligible to receive option grants during the first fiscal year because of tenure, position, salary level or similar eligibility standard, less those employees who terminate employment or are transferred to positions in which they become ineligible for options under the plan.

(3) *Plans reported pursuant to § 201.79 or § 152.129.*—The allowable number of shares that may be issued under new stock options granted under a stock option plan which was reported to the Pay Board or Council pursuant to § 201.79 or § 152.129 and which meets the requirements of (A) through (D) of paragraph (c)(1)(i) of this section shall be:

(i) For the first fiscal year grants are made with respect to the reported plan, the number of shares reported as to be covered by grants during such fiscal year, provided such grants are not for the purpose of circumventing the intent of the wage and salary stabilization program and are not unreasonably inconsistent with the standards and goals of the Economic Stabilization Program; and

(ii) For each fiscal year thereafter, using the number of shares reported for the first fiscal year (and not disapproved by the Pay Board or Council) as the aggregate share limitations for the first fiscal year, and computing the aggregate share limitations for subsequent fiscal years as though the plan were subject to the provisions of paragraph (d)(2)(ii) of this section.

(4) *Plans described in § 152.128(e).*—The allowable number of shares that may be issued under new stock options granted under a stock option plan which is described in § 152.128(e) and which meets the requirements of (A) through (D) of paragraph (c)(1)(i) of this section shall be:

(i) For any fiscal year the plan operates under § 201.35, the number of shares allowed to be covered by grants under § 201.35; and

(ii) For each fiscal year thereafter the number of shares determined pursuant to paragraph (c)(1)(iii) of this section if the plan operated for 3 or more fiscal years which ended prior to the close of business on December 16, 1971, or, if the plan did not operate for such period, determined as though the provisions of paragraph (d)(2)(ii) of this section were applicable, using the number of shares granted during the last fiscal year the plan operated under § 201.35 as the aggregate share limitation for the first fiscal year.

(e) *Special rules.*—(1) For purposes of determining the allowable number of shares to be issued under new stock options during an employer's fiscal year pursuant to paragraphs (c) or (d) of this section the term "fiscal year" means the 12 month period constituting the employer's fiscal year. Parts of such a fiscal year shall be measured in months, such months constituting twelfths of a fiscal year. Parts of such a month shall be counted as a full month. The period of December 1, 1971, through December 16, 1971, shall be counted as a full month.

(2) For purposes of this paragraph the term "new stock option" shall include—(i) an option not previously granted with respect to shares covered under a stock option plan regardless of whether the shares covered under such new option were previously covered under another stock option, and (ii) an option previously granted where the exercise period with respect to such option is modified.

(3) Where an employer has two or more plans which meet the requirements of (A) through (D) of paragraph (c)(1)(i) of this section, the aggregate share limitation applicable to each plan shall be determined seprately; however, options may be granted pursuant to any or all of the plans if the total shares subject to option grants during the fiscal year do not exceed the sum of the aggregate share limitations applicable to the several plans.

(4) For purposes of this section, a stock option plan shall be considered to begin operating on the day of the first grant under the plan. Subsequent to such grant, the plan shall be considered to continue operating until such plan expires, terminates, or is replaced, even if no options are granted during a fiscal year.

(f) *Other stock options.*—For rules with respect to the treatment of stock options which are not within the provisions of paragraph (b) or (c) of this section, see § 152.131.

(g) *Rules with respect to certain plans.*—(1) Stock options granted under a stock option plan described in paragraph (c)(1)(i) of this section which meets the definition of § 152.122 (c) or (f) and operates under § 201.35 shall not operate under such paragraph (c)(1).

(2) Any plan described in paragraph (g)(1) of this section, which no longer operates under § 201.35, shall be considered as an expired stock option plan within the meaning of § 152.128(e) and shall operate under the applicable provisions of this subpart.

§ 152.127 Sales or commission plans or practices and certain production incentive programs.

(a) *Applicability.*—(1) *Firms subject to self-administration.* The provisions of this section should be used as guidance in the administration of sales or commission plans and practices and production incentive programs by firms subject to self-administration under the provisions of subpart B of this part.

(2) *Firms subject to mandatory controls.*—This section provides mandatory rules applicable to the administration of sales or commission plans and practices and production incentive programs by firms subject to mandatory controls under the provisions of this part.

(b) *In general.* (1) *Established plans, practices, or programs.*—A sales or commission plan or practice established and in effect on November 13, 1971, or a production incentive program established, and in effect on such date may continue to operate in accordance with its provisions and subject to the provisions of this chapter. Generally, such plans, practices, or programs are those which directly reflect the performance of the employee participant in the form of sales or production output. Thus, for example, an incentive award related to profits is generally not a sales or commission plan or practice or a production incentive program within the meaning of this section. A plan, practice, or program under which payments, awards, or grants are based on sales or production output does not operate under this section if the plan, practice, or program unit includes employees (e.g., top management) whose primary responsibilities are not directly related to sales or production output.

(2) *New plans, practices, or programs.*—An employer having a sales or commission plan or practice or a production incentive program described in § 152.128(d) (with respect to new plans, practices, or programs), and approved by the Pay Board or Council pursuant to § 201.78 or § 152.128, or described in § 152.129(b) (with respect to new organizations) and reported to the Pay Board or Council pursuant to § 201.79 or § 152.129 shall administer such a plan, practice, or program subject to the provisions of this chapter.

(c) *Change in method of calculating earnings.*—Amounts paid under a plan, practice, or program described in paragraph (b) of this section shall not be considered as an increase in wages and salaries with respect to the appropriate employee units of the employees participating in the plan, practice, or program units unless there has been a change in the method of calculating the earnings under such a plan, practice, or program resulting in an increase in the aggregate amount of compensation with respect to such plan, practice, or program unit for the plan, practice, or program year such change occurs. Thus, a downward revision of the rate or formula with respect to a plan, practice, or program where there is an increase in the aggregate amount of compensation attributable to factors unrelated to the change in rate or formula, such as an increase in volume, either in dollars or units, under such plan, practice, or program, does not result in an increase with respect to the appropriate employee units of the employees participating in the plan, practice, or program unit.

(d) *Increases in wages and salaries.*—The amount of the increase in wages and salaries described in paragraph (c) of this section shall be deemed to be an increase in wages and salaries with respect to the appropriate employee units of the employees participating in the plan, practice, or program unit. Such increase shall be apportioned to the appropriate employee units of the employees participating in the plan, practice, or program unit. The amount of such increase which shall be apportioned to an appropriate employee unit shall be determined when the amount constituting the increase is paid as follows: The number of employees in an appropriate employee unit who are participating in such a plan, practice, or program unit multiplied by a fraction, the numerator of which is the amount of the increase and the denominator of which is the number of employees in the plan, practice, or program unit. The amount so apportioned to each appropriate employee unit with respect to any plan, practice, or program year shall be considered as an increase in wages and salaries during the control year such amount is paid (or if not paid, the control year such amount would have been paid had such amount been paid). Such amount shall also be considered as a pay adjustment for purposes of the prenotification and reporting requirements of this title with respect to each such appropriate employee unit when such amount is considered as an increase in wages and salaries. Such amount shall not be allowed to increase the maximum permissible annual aggregate wage and salary increase with respect to an appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by such amount for the control year such amount is paid. For purposes of this section, a plan, practice, or program without a specified plan, practice, or program year shall be considered as operating during the 12-month period beginning on November 14 and ending on November 13.

(e) *Certain productivity programs.*—Notwithstanding the provisions of this section and §§ 152.128 and 152.129, any productivity incentive program described in § 201.61 of this title shall be governed by the provisions of that section.

§ 152.128 New or revised plans, practices, or programs.

(a) *Scope.* (1) *Firms subject to self-administration.*—With respect to firms subject to the provisions of subpart B of this part, the provisions of this sec-

tion are applicable to incentive compensation plans and practices (except stock option plans which meet the requirements of (A) through (D) of § 152.126 (c)(1)(i)), sales or commission plans and practices, and production incentive programs which apply to or affect one or more members of an executive control group (as determined pursuant to § 152.130).

(2) *Firms subject to mandatory controls.*—With respect to firms subject to mandatory controls under this part, the provisions of this section are applicable to all incentive compensation plans and practices, sales or commission plans and practices, and production incentive programs.

(b) *Replacement of existing plans, practices, or programs.*—(1) An employer may, without the approval of the Council, adopt a new incentive compensation plan or practice, sales or commission plan or practice, or production incentive program replacing such a plan, practice, or program operating under the provisions of this subpart which has lapsed or terminated on account of the operation of time only when such new plan, practice, or program does not increase the aggregate amount of compensation that would have been granted (whether or not currently) the plan, practice, or program unit had the replaced plan, practice, or program not lapsed or terminated on account of the operation of time. Such new plan, practice, or program shall continue to operate under the applicable provisions of this subpart. Thus, an incentive compensation plan in effect on November 13, 1971, described in § 152.124 (b)(1) and operating under § 152.124 which is replaced under the provisions of this subparagraph shall continue to operate under § 152.124 (including any limitations with respect to the allowable amount with respect to such plan applicable prior to replacement).

(2) Replacement of an existing plan, practice, or program other than a replacement described in paragraph (b)(1) of this section shall be submitted to the Council for prior approval pursuant to paragraph (d) of this section.

(3) For purposes of paragraph (b)(1) of this section, a stock option plan under which all of the authorized shares have been the subject of option grants shall be considered as having lapsed or terminated on account of the operation of time.

(c) *Modification or revision of existing plans, practices, or programs.*—(1) An employer may, without the approval of the Council modify or revise an incentive compensation plan or practice operating under the provisions of this subpart only when such modified or revised plan or practice does not increase the aggregate amount of compensation that would have otherwise been granted (whether or not currently) a plan or practice unit under the plan or practice without taking such modification or revision into account.

(2) Any modification or revision of an incentive compensation plan or practice not described in paragraph (c)(1) of this section shall be submitted to the Council for prior approval. Modifications or revisions requiring such approval include the reduction of performance goals or targets from those in the base year under an incentive compensation plan or practice, the decrease in the price under a stock option plan at which a stock option may be exercised, and the alteration of eligibility requirements for participation in an incentive compensation plan or practice which would increase the number of employees eligible to participate in the plan or practice unit.

(3) For the treatment of a modification or revision of a sales or commission plan or practice or a production incentive program resulting in an increase in the aggregate amount of compensation that would otherwise have been granted (whether or not currently), see § 152.127.

(d) *Adoption of new plans, practices, or programs*—(1) *Approval.* An employer may adopt a new incentive compensation plan or practice, sales or commission plan or practice, or production incentive program where such a plan, practice, or program did not exist prior to November 14, 1971, only upon the prior approval of the Council and under such terms and conditions as may be imposed by the Council. In the case of a stock option plan requiring the prior approval of the Council, no stock options shall be granted in anticipation of or subject to such approval.

(2) *Performance share plans.*—An employer may utilize the valuation for performance share awards set forth in § 152.124(d)(3)(ii) only upon the prior approval of the Council (pursuant to paragraph (d)(1) of this section) of a performance share plan under which performance share awards are to be granted, and subject to such terms and conditions as may be imposed by the Council.

(e) *Rules with respect to certain expired plans, practices, and programs.*—Any plan, practice, or program which meets the definitions of § 152.122(c) or (f) and operated under the provisions of § 201.35 of this title, but which no longer operates under such section shall be allowed to operate only as provided under the provisions of this subpart; provided, however, that to the extent incentive compensation attributable to such plans, practices, or programs is not treated as wages and salaries, or as an increase thereto, under the provisions of this subpart such compensation shall not be included in computing the base compensation rate of any appropriate employee unit of which employees in the plan unit are a part. Thus, for example, items granted under an incentive compensation plan described in § 152.124(b)(1) which meets the definition of § 152.122(c) or (f) and operated under § 201.35 are not treated as an increase in wages and salaries and are not included in computing the base compenstation rate of any appropriate employee unit of which employees in the plan or practice unit are a part.

(f) *Rules with respect to plans, practices, or programs described in paragraph (b), (c), or (d) of this section.*—A new plan, practice, or program adopted pursuant to paragraph (b) or (d) of this section or a plan, practice, or program modified or revised pursuant to paragraph (c) of this section or allowed to operate pursuant to paragraph (e) of this section shall comply with other relevant sections of this subpart applicable to plans, practices, or programs in effect on November 13, 1971.

(g) *Criteria.*—In considering applications for approval pursuant to the provisions of this section, or for exceptions from the provisions of this section or other provisions of this subpart, the Council will review the facts and circumstances of each case and utilize the criteria set forth in § 201.30 of this title as such may be applicable.

§ 152.129 New organizations and changes in organizational form.

(a) *Scope.* (1) *Firms subject to self-administration.*—With respect to firms subject to the provisions of subpart B of this part, the provisions of this section are applicable to incentive compensation plans and practices (except stock option plans which meet the requirements of (A) through (D) of § 152.126 (c)(1)(i)), sales or commission plans and practices, and production incentive programs which apply to or affect one or more members of an executive control group (as determined pursuant to § 152.130).

(2) *Firms subject to mandatory controls.*—With respect to firms subject to mandatory controls under this part, the provisions of this section are applicable to all incentive compensation plans and practices, sales or commission plans and practices, and production incentive programs.

(b) *New organizations.* (1) *General.*—Any business, enterprise, partnership, corporation, association, or any other organization organized or established on or after November 14, 1971, which is not a successor to any such organization in existence before such date, that establishes an incentive compensation plan or practice, a sales or commission plan or practice, or a production incentive program, shall file with the Council a report of such plan, practice, or program, not later than 90 days after establishment of such business, enterprise, partnership, corporation, association, or other organization. The report filed shall in detail describe such plan, practice, or program, including the amount of each item of actual or anticipated compensation (including items described in § 152.123) with respect to each appropriate employee unit (or, where appropriate, the employees in such unit). Also, where available, this description shall include compensation levels of appropriate employee units (or, where appropriate, the employees in such unit) in comparable jobs in nearby firms. The report filed shall also demonstrate that the establishment of the entity and such plans, practices, or programs was not for the purpose of circumventing the intent of

the wage and salary stabilization program and are not unreasonably inconsistent with the standards and goals of the Economic Stabilization Program.

(2) *Incorporation of an existing proprietorship or partnership.*—For purposes of this section, the incorporation of an existing proprietorship or partnership shall be treated as the creation of a new organization subject to the provisions of this paragraph, and not as a change in organization form subject to the provisions of paragraph (c) of this section.

(c) *Changes in organization form (other than mergers and similar reorganizations).*—If an employer is doing business in a particular organizational form and thereafter reorganizes and conducts its business in a different organizational form and, before, after, or as part of and on account of such reorganization establishes new incentive compensation plans or practices, sales or commission plans or practices, or production incentive programs which are successors to plans, practices, or programs in effect before such reorganization and which operate under the provisions of this subpart, it shall, within 90 days after such reorganization file in report form all such plans, practices, or programs with the Council. The report filed shall in detail describe such plans, practices, or programs including the amount of each item of actual or anticipated compensation (including items described in § 152.123) with respect to each appropriate employee unit (or, where appropriate, the employees in such unit). Also, when available, this description shall include compensation levels of appropriate employee units (or, where appropriate, the employees in such unit) in similar positions in the predecessor organization (or organizations) prior to the reorganization. The report filed shall also demonstrate that the reorganization and establishment of such plans, practices, or programs were not for the purpose of circumventing the intent of the wage and salary stabilization program and are not unreasonably inconsistent with the standards and goals of the Economic Stabilization Program. For purposes of this paragraph a plan, practice, or program is considered as a "successor" to another plan, practice, or program where such plan, practice, or program does not increase the aggregate amount of compensation that would have otherwise been granted (whether or not currently) a plan, practice, or program unit without taking the reorganization into account. Plans, practices, or programs which are not successor plans, practices, or programs shall be considered as new plans, practices, or programs subject to the provisions of § 152.128 (d)(1).

(d) *Mergers and similar reorganizations.*—If an employer merges with, or otherwise acquires, another business, enterprise, partnership, corporation, association, or any other organization, such employer may continue its incentive compensation plans and practices, sales or commission plans and practices, and production incentive programs pursuant to the applicable provisions of this subpart and the employees of such other organization may be added to such plans, practices, or programs pursuant to the applicable provisions of this subpart. The employer may continue the incentive compensation plans and practices, sales or commissions plans and practices, and production programs of such other organizations pursuant to the applicable provisions of this subpart and the employees of the employer may be added to such plans, practices, or programs pursuant to the applicable provisions of this subpart. Plans, practices, or programs which are not successor plans, practices, or programs within the meaning of paragraph (c) of this section shall be considered as new plans, practices, or programs subject to the provisions of § 152.128(d)(1). Employers who wish to combine plans, practices, or programs on account of such a merger shall submit such combined plans, practices, or programs to the Council for prior approval.

(e) *Carryover of attributes.*—For purposes of this subpart, a change in organizational form described in paragraph (c) or (d) of this section shall not affect the applicable attributes of the employer, such as appropriate employee units, plan, practice, or program units, executive control groups, plan, practice, or program years, or control years. Such attributes shall be carried over by the employer undertaking such a change in form, unless otherwise clearly required by the organizational change.

§ 152.130 Executive control groups.

(a) *Scope.*—This section establishes special mandatory rules with respect to pay adjustments made to members of executive control groups and is applicable to such pay adjustments in any firm unless such pay adjustments are exempt under the provisions of subpart D or E of this part. The rules provided in this section are in addition to any rules provided elsewhere in this title with respect to pay adjustments to members of appropriate employee units or to members of plan, practice, or program units. To the extent that the provisions of this section are inconsistent with any other provision of this title, the provisions of this section shall control; however, see § 152.133(d) for the effect of outstanding decisions and orders.

(b) *Designation of executive control group.*—(1) *General rule.*—Every firm shall designate one executive control group, which shall consist of—

(i) All officers of the firm (regardless of amount of salary or other remuneration); and

(ii) All employee directors of the firm whose aggregate direct remuneration from the firm, (or in the case of an affiliated group of entities, from any or all such entities of which such firm is the parent) including salary, fees, perquisites, per diem reimbursement, and other forms of remuneration, individually exceeds $30,000 in the fiscal year.

(2) *Special rules with respect to designation of executive control group.*—(i) An executive control group may consist of employees who are members of the same appropriate employee unit (but not necessarily all of the members of such appropriate employee unit) or members of more than one appropriate employee unit.

(ii) If, in an unincorporated firm, none of those persons who perform duties corresponding to officers receives wages and salaries, such firm shall not be required to designate an executive control group.

(iii) A person residing and employed abroad whose pay adjustments are exempt pursuant to § 152.31(b) shall not be a member of an executive control group.

(c) *Definitions.*—For purposes of this section—

(1) "Officer" means a president, vice president, treasurer, secretary, comptroller, or any other employee who performs for a firm, whether incorporated or unincorporated, functions corresponding to those performed by the foregoing officers. In the case of a firm subject to the Rules and Regulations issued by the United States Securities and Exchange Commission, the term "officer" means the same as in Rule 3b–2 of such Rules and Regulations, and a person who is not an officer under such Rule shall not be considered an officer for purposes of this section, even if his remuneration is reported on proxy statements under the Rules and Regulations of the Securities and Exchange Commission. The term "officer" shall ordinarily exclude subordinates and assistants to the foregoing officers (e.g., assistant vice presidents) and employees in equivalent positions (e.g., second vice presidents) and those employees (regardless of title) whose duties principally involve the rendering of services to selected clients or customers of the firm.

(2) "Employee director" means a director of a firm who is an employee of such firm. In the case of an affiliated group of entities, the term means a director of a parent who is an employee of any of such entities of which such firm is the parent.

(3) "Fiscal year" means a firm's customary 12-month fiscal accounting year.

(4) "Fiscal base date" means, with respect to a fiscal year, the day before the first day of such fiscal year.

(5) "Base year" means the same as in § 152.124(c)(5)(ii)(D) or § 152.125(c)(5)(ii)D), whichever is applicable.

(6) "Base period" means, at the election of a firm—

(i) The last 4 consecutive plan or practice years ending prior to November 14, 1972, for which there have been payments under an incentive compensation plan or practice prior to November 14, 1972; or, if payments have been made prior to November 14, 1972, with respect to fewer than 4 consecutive plan or practice years ending prior to November 14, 1972, such lesser number of years; or

(ii) The most recent plan or practice year ending prior to August 29, 1973, for

which a payment has been made prior to such date.

(7) "Firm" means the same as in § 152.2, except that the term does not include an individual, or State and local governments or any agencies or instrumentalities thereof, and except that in the case of an affiliated group of entities the term shall mean each parent.

(8) "Affiliated group of entities" means a parent and those entities directly or indirectly controlled by the parent.

(9) "Parent" means—

(i) A person that is not controlled, directly or indirectly, by another person; or

(ii) A person that is controlled, directly or indirectly, by another person, if—

(A) Such controlling person is an individual, group or entity whose ownership interest with respect to such controlled person is essentially of an investment nature;

(B) Such controlling person is a foreign entity (i.e., is located outside the several States and the District of Columbia);

(C) The management and policies of such controlled person are directed by its officers and board of directors (or similar governing body) without active continuous participation by such controlling person;

(D) The relationship between such persons was created or redefined primarily for the purpose of circumventing the application of the rules in this part; or

(E) Such controlled person is the issuer of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934.

(d) *Limitation on salary increases.* (1) *General.*—Except as provided in paragraph (d)(3) of this section, the average group salary rate with respect to an executive control group in a fiscal year shall at no time exceed 105.5 percent of the average group salary rate determined with respect to the executive control group on the fiscal base date (at the salary rates in effect on such date), computed in accordance with the provisions of paragraph (d)(2) of this section.

(2) *Computation of average group salary rate.* (i) *General.*—The average group salary rate shall be expressed in terms of dollars per year, and shall be determined by constructing a fraction, the numerator of which shall be the sum of the annual base salaries with respect to the positions in the executive control group, and the denominator of which shall be the number of positions in such group.

(ii) *Rules with respect to changes in composition of group.*—For purposes of the computation of increases in the average group salary rate set forth in this subparagraph (but not in the case of alternative computations made pursuant to paragraph (d)(3) of this section), the following rules shall apply—

(A) If, during a fiscal year, a position is deleted from an executive control group, such position and the base salary for such position shall be excluded from the computation of the average group salary rate with respect to the fiscal base date. For purposes of the preceding sentence, a position shall not be considered deleted from the executive control group if such position is vacant but is expected to be filled within a reasonable time.

(B) If, during a fiscal year, a new position is added to an executive control group, and such position is actually filled during the fiscal year, such position and the base salary for such position shall be included in the computation of the average group salary rate with respect to the fiscal base date. For purposes of the preceding sentence, a position shall be considered filled only if an employee actually performs work in such position during the fiscal year. The rules in § 201.62 of this title shall apply with respect to the determination of base salary for a new position.

(C) If, during a fiscal year, solely as a result of retrospective recomputations required under paragraphs (d)(2)(ii)(A) and (B) of this section, the average group salary rate is determined to exceed 105.5 percent of the average group salary rate determined with respect to the fiscal base date, then no further salary increase may be put into effect in the executive control group with respect to the fiscal year.

(iii) *Promotions.*—For purposes of the computation of increases in the average group salary rate set forth in this subparagraph, no exclusion shall be made for increases attributable to promotions. The preceding sentence shall not apply to alternative computations made pursuant to paragraph (d)(3) of this section.

(3) *Alternative computation of wage and salary increases.*—For purposes of this paragraph, and in lieu of the computation provided in paragraph (d)(2) of this section, a firm may elect to treat an executive control group as though such group were a separate appropriate employee unit. If such an election is made, wage and salary increases in such group with respect to a fiscal year shall not exceed the general wage and salary standard, applied to a base compensation rate computed for such group with respect to the fiscal base date. Such base compensation rate shall incorporate an average straight-time hourly rate determined with respect to the employees who are members of such group, and an average hourly rate of employer contributions to fringe benefits (both included and qualified) attributable to such employees. The computation of increases in the base compensation rate shall be made in accordance with the provisions of subpart E of part 201 of this title, as applicable, and shall be recorded on the Council's Form PB–3. However, the computation of increases in the average straight-time hourly rate shall in all cases be made in accordance with the method prescribed in § 201.57 of this title. The provisions of this subparagraph shall not operate to permit any actual change of appropriate employee units and do not affect any other provisions of this part. (See paragraph (j) of this section.)

(4) *Excess amounts.*—For purposes of this paragraph, if a member of an executive control group receives a payment, award, or grant of an item of incentive compensation which is charged as a wage and salary increase pursuant to § 152.124(d)(2)(ii) or § 152.125(d)(2)(ii) (applicable only to coextensive units), or pursuant to any other regulation or order under the Economic Stabilization Program, the amount of such payment, award, or grant so charged shall be treated as an increase in annual base salary during the fiscal year in which such payment, award, or grant is made. However, for purposes of this paragraph, such amount shall not be treated as part of annual base salary in determining the average group salary rate or base compensation rate on a fiscal base date with respect to the succeeding fiscal year.

(5) *Salaries received with respect to other positions.*—For purposes of this paragraph, the base salary of a member of an executive control group shall be deemed to include the salaries received by such member with respect to all positions occupied by such member in the firm (or, in the case of an affiliated group of entities, in all such entities of which such firm is the parent).

(6) *Existing contracts.*—For purposes of this paragraph, a base salary received by a member of an executive control group pursuant to an existing contract (as defined in § 152.122(c)) shall be excluded from the computation of the average group salary rate (or alternative base compensation rate and increases therein). Further, such member's position shall not be considered as part of the executive control group for purposes of computing increases in such rates. Payments received pursuant to such an existing contract shall remain subject to review by the Council, which may by order direct the repayment of all or a portion of such payments, or impose such other requirements or conditions as are reasonable and appropriate to accomplish the purposes of the Economic Stabilization Program.

(e) *Limitation on incentive compensation.*—(1) *General.* Payments, awards, or grants of incentive compensation pursuant to incentive compensation plans or practices subject to the provisions of § 152.124 or § 152.125, made with respect to a fiscal year with respect to employees who are members of an executive control group, shall not exceed an amount which is equal to the product of the allowable amount for the plan or practice unit (determined pursuant to § 152.124 or § 152.125, as applicable, and after adjustment for changes in composition of the plan or practice unit required by § 152.124(c)(3)(ii) or § 152.125(c)(3)(ii)) and the apportionment factor for the plan or practice determined pursuant to paragraph (e)(2) of this section.

(2) *Apportionment factor.*—For purposes of this paragraph, an apportionment factor for an incentive compensation plan or practice shall be computed by constructing a fraction, the numerator of which shall be the total (not an annual average) of payments, awards or

grants pursuant to such plan or practice made to the executive control group with respect to the base period, and the denominator of which shall be the total (not an annual average) of payments, awards, or grants pursuant to such plan or practice made to all employees in the plan, practice or program unit with respect to the base period.

(3) *Limitations applicable to each plan or practice.*—The limitations set forth in subparagraph (e)(1) of this section shall apply separately to each incentive compensation plan or practice administered by a firm (or in the case of an affiliated group of entities, by any such entity) which affects a member of an executive control group.

(4) *Excess amounts.*—Notwithstanding the provisions of paragraph (e)(1) of this section, if an amount of incentive compensation is permitted to be charged as a wage and salary increase with respect to an appropriate employee unit pursuant to § 152.124(d)(2)(ii) or § 152.125(d)(2)(ii), members of an executive control group who are members of such unit may receive a portion of the amount so charged. The maximum amount of such portion shall be computed by multiplying the total amount so charged (with respect to the appropriate employee unit) by the apportionment factor determined pursuant to paragraph (e)(2) of this section. Payment of such amount to members of the executive control group shall be subject to the provisions of paragraphs (d)(1) and (4) of this section.

(f) *Reporting.*—(1) *Timing of report.*—A firm which derives annual sales or revenues (as defined in § 152.2) in excess of $250 million (including, in the case of an affiliated group of entities, the sales or revenues attributable to all such entities of which such firm is the parent) shall submit a report to the Council not later than 10 days after any payment, award, or grant of any item of incentive compensation subject to § 152.124 or § 152.125 is made with respect to a member of an executive control group. If no payments, awards, or grants are made with respect to a fiscal year pursuant to an incentive compensation plan or practice subject to § 152.124 or § 152.125, such a firm shall submit a report to the Council not later than 30 days after the end of such fiscal year.

(2) *Content of report.*—A report required under this paragraph shall relate to the fiscal year with respect to which the payment, award, or grant of an item of incentive compensation is made (or if no such payments, awards, or grants are made, to the most recently ended fiscal year). Such report shall be submitted on forms prescribed by and pursuant to instructions issued by the Council and shall contain, with respect to the members of the executive control group—

(i) Separate listings of aggregate base salaries for the fiscal year, and all items of incentive compensation under plans or practices subject to § 152.124 or § 152.125 paid, awarded, or granted with respect to the same fiscal year;

(ii) The same information for the prior fiscal year;

(iii) A listing of all increases in the aggregate base salaries of members of the executive control group attributable to promotions with respect to the fiscal year and the prior fiscal year; and

(iv) A listing of all items of deferred compensation payable to members of the executive control group with respect to the fiscal year.

(3) *Identification of individuals.*—A report submitted under the provisions of this paragraph shall include individual compensation data with respect to all employee directors that are members of the executive control group, identified by name and position, and with respect to the three officers, identified by name and position, whose aggregate direct remuneration most exceeds $30,000, if any. Other officers need not be identified individually by name or position, unless such information is requested by the Council.

(g) *Recordkeeping.*—A firm which derives annual sales or revenues (as defined in § 152.2) in excess of $50 million (including, in the case of an affiliated group of entities, the sales or revenues attributable to all such entities of which such firm is the parent) shall maintain records sufficient to permit the submission of a report described in paragraph (f) of this section, upon request by the Council.

(h) *Exceptions.*—An application for exception to the limitations imposed under the provisions of paragraph (d) or (e) of this section may be submitted to the Council. Such an exception may be approved by the Council only upon a demonstration of extreme hardship or severe inequity caused by the application of such limitations.

(i) *Prior increases, payments, awards, or grants.* Notwithstanding any other provision of this section, wage and salary increases or payments, awards, or grants subject to the provisions of this subpart, lawfully made or put into effect with respect to members of an executive control group prior to August 29, 1973, shall not constitute a violation under the Act. However, if such increases, payments, awards, or grants exceed, with respect to a fiscal year ending on or after August 29, 1973, the increase, payment, award, or grant permissible for such fiscal year under the provisions of this section, then no further increase, payment, award, or grant may be made or put into effect with respect to such fiscal year without the prior approval of the Council. Notwithstanding the preceding sentence, increases, payments, awards or grants subject to the terms of a prior decision and order issued by the Pay Board or Council are subject to the provisions of § 152.133(d).

(j) *No effect on units.*—The designation of an executive control group shall have no effect on the composition of an appropriate employee unit or a plan, practice, or program unit. The inclusion of an employee (or position) in an executive control group shall not operate to remove such employee (or position) from an appropriate employee unit or from a plan, practice or program unit. The provisions of this section shall not authorize any change of appropriate employee units. The limitations on compensation with respect to executive control groups shall be applied separately from and in addition to the limitations on compensation with respect to appropriate employee units set forth elsewhere in this title. Unless otherwise ordered by the Council, the application of the limitations on compensation in an executive control group shall not operate to limit compensation with respect to members of an appropriate employee unit who are not members of an executive control group.

(k) *Application illustrated.*—The application of this section may be illustrated by the following examples:

Example (1).—Firm A is a bank and, as is common in the banking industry, has 20 employees who are designated as vice presidents and who are considered corporate "officers" by the bank's customers and clients. However, 15 of the vice presidents are primarily responsible for managing specific major trusts or specific customer accounts, and their responsibilities do not extend to general corporate management. Accordingly, they are not included within Firm A's executive control group. The remaining 5 vice presidents are principally involved in general corporate affairs. Accordingly, they are properly included within the firm's executive control group.

Example (2).—Employee A, a member of an executive control group, is a participant in an incentive bonus plan where the plan unit and appropriate employee unit are coextensive. Pursuant to the plan's operation, A receives $5,000 which, under § 152.124(d)(2)(ii), is treated as a wage and salary increase. For purposes of computing the average group salary rate or alternative base compensation rate for the executive control group, A is considered to have received a $5,000 salary increase during the fiscal year in which the $5,000 is paid. However, this $5,000 is excluded when A's salary is computed for purposes of determining the average group salary rate or alternative base compensation rate on the fiscal base date with respect to the succeeding fiscal year.

Example (3).—On November 1, 1973, pursuant to the requirements of § 152.130(b), Firm B designates an executive control group (ECG) consisting of 6 top management positions in the firm. The actual per annum base salaries for positions in the ECG on the fiscal base date, December 31, 1972, were as follows:

President	$100,000
Executive vice president	80,000
Treasurer	70,000
Vice president-sales	60,000
Vice president-manufacturing	50,000
Secretary	40,000
Total	400,000

The average group salary rate as of December 31, 1972, for the ECG was $66,667 ($400,000÷6). From January 1 through August 28, 1973, the following personnel actions occurred within the ECG:

A. The incumbent president retired, effective March 1, 1973, and was replaced effective the same day by the incumbent executive vice president at a base salary of $90,000 per annum (a reduction of $10,000 per annum from the base salary for that position on the fiscal base date).

(B) A new employee was hired to fill the temporarily vacant position of executive vice president, effective April 1, 1973, at a base salary of $90,000 per annum (an increase of $10,000 per annum over the base salary for that position on the fiscal base date).

C. The incumbent treasurer retired effective May 1, 1973, and that position and salary were eliminated.

D. The incumbent vice president-manufacturing received a base salary increase of $10,000 per annum, effective May 15, 1973.

E. The incumbent corporate secretary received a base salary increase of $8,000 per annum, effective June 1, 1973.

F. A new position of vice president-finance was created and an employee promoted from without the ECG to fill the position at a base salary of $50,000 per annum, effective July 1, 1973. This base salary was established in accordance with the provisions of § 201.62 of this title.

The per annum base salaries for positions in the ECG on the fiscal base date, but adjusted for additions and deletions pursuant to § 152.130(d)(2)(ii), are as follows:

President	$100,000
Executive vice president	80,000
Vice president-sales	60,000
Vice president-manufacturing	50,000
Secretary	40,000
Vice president-finance	50,000
Total	380,000

The average group salary rate for the ECG on the fiscal base date after adjustment for additions and deletions during the fiscal year was $63,333 ($380,000÷6). The per annum base salaries for positions in the ECG at the close of the fiscal year ending December 31, 1973 (assuming no further actions affecting the ECG prior to such date), are as follows:

President	$90,000
Executive vice president	90,000
Vice president-sales	60,000
Vice president-manufacturing	60,000
Secretary	48,000
Vice president-finance	50,000
Total	398,000

The maximum permissible average group salary rate during the fiscal year 1973, pursuant to § 152.130(d)(1), is $66,816 ($63,333×105.5%). Since the actual rate achieved was $66,333 ($398,000÷6), Firm A would be in compliance with the requirements of § 152.130(d)(1).

Example (4).—On November 1, 1973, pursuant to the requirements of § 152.130(b), Firm C designates an executive control group (ECG) of top management positions in the firm and prepares an estimate of incentive compensation (IC) payments that may be paid to members of the ECG under § 152.130(e). Firm C's plan year for IC payments is a calendar fiscal year and the plan is one with respect to which IC payments have been made to the plan unit for at least five years prior to the 1973 plan year. The plan unit and appropriate employee unit are not coextensive within the meaning of § 152.124(d)(2)(ii). IC payments to all plan participants with respect to the four plan years ending prior to November 14, 1972, were as follows:

1968 plan year	$2,000,000
1969 plan year	1,000,000
1970 plan year	500,000
1971 plan year	500,000
Total	4,000,000

With respect to the 1972 plan year, IC payments to all plan participants totaled $1,800,000. Firm C estimates that pursuant to the plan, profits for 1973 will generate a bonus pool for the entire plan unit of $2,600,000. The computation of the allowable amount for the plan unit pursuant to §§ 152.124(c)(3) and (5) with respect to the 1973 plan year is as follows:

Base year (1968) amount	$2,000,000
1971 ($2,000,000×105.5%)	2,110,000
1972 ($2,110,000×105.5%)	2,226,000
1973 ($2,226,000×105.5%)	2,348,400
1973 plan unit adjustment factor computed pursuant to § 152.124(c)(5)	×1.013
Permissible payment in 1973	2,378,900

Firm C made a total of $400,000 in bonus payments to plan participants who occupied positions in the ECG with respect to the plan years 1968 through 1971. The firm made $150,000 in bonus payments to such plan participants with respect to the plan year 1972. The apportionment factor with respect to the formula referred to in §§ 152.130(e)(1) and (2) applicable to the plan year 1973 at the election of Firm C would be computed as follows:

§ 152.130(c)(8)(i) base period—($400,000÷$4,000,000)=0.1

§ 152.130(c)(8)(ii) base period—($150,000÷$1,800,000)=0.083

Firm C elects the base period referred to in § 152.130(c)(8)(i) which produces the higher apportionment factor. Pursuant to § 152.130(e)(1), if the plan generates sufficient profits to equal the permissible payment to the plan unit for 1973, members of the ECG in Firm C would be permitted to receive total IC payments of $237,890 ($2,378,900×0.1).

Example (5).—Firm D's fiscal year is the calendar year. In January 1973, Firm D, which was subject to the Phase III rules of self-administration, raised salaries for employees who are now identified as members of the firm's executive control group. The salary increases resulted in an increase of 2% in the average group salary rate for 1973. In March 1973, Firm D made payments to participants in its incentive compensation plan. These payments were in excess of the allowable amount for the plan (within the meaning of § 201.74(c) of this title), and the excess amount resulted in an increase in the average group salary rate (computed in accordance with § 152.130(d)(4)) of 4%. The total increase for 1973 prior to August 29, 1973, is therefore determined to be 6%. Since such payment was not unlawful when made, no repayment or salary refund is required on or after August 29, 1973 under § 152.130. However, since any further salary increases after August 28, 1973, would result in an average group salary rate more than 105.5% of the rate in effect on the fiscal base date, no further salary increases may be put into effect after such date until the beginning of the next fiscal year, January 1, 1974.

§ 152.131 Stock option plans deemed to be incentive compensation plans or practices subject to § 152.124 or § 152.125.

(a) *Applicability.* (1) *Persons subject to this section.*—This section shall be applicable to stock option plans for all nonexempt firms whether subject to self-administration or subject to mandatory controls and to all executive control groups in the same manner as if such plans were incentive compensation plans or practices under §§ 152.124 and 152.125, respectively.

(2) *Grants and exercises subject to this section.*—This section shall be applicable to—

(i) Grants and exercises of stock options made on or after August 29, 1973; and

(ii) Grants and exercises made with respect to plan or practice years which end on or after August 29, 1973.

(b) *Grant or exercise.*—Except for stock options granted pursuant to the provisions of § 152.126(b), the grant or exercise of any stock option under a stock option plan (whether or not such plan operated under § 201.35) failing to meet the requirements of (A) through (D) of § 152.126(c)(1)(i) where such plan—

(i) Was adopted prior to November 14, 1971, and was in effect on November 13, 1971, or

(ii) Was adopted on or after November 14, 1971, and was approved by the Pay Board or Council,

shall be deemed to be pursuant to the operation of an incentive compensation plan or practice subject to the provisions of § 152.124 or § 152.125, as appropriate. Except as provided in § 152.128(b) (with respect to replacement of stock option plans under which options covering all of the authorized shares have been granted), options under stock option plans adopted on or after November 14, 1971, shall not be granted or exercised until such plan is approved by the Council pursuant to § 152.128.

(c) *Valuation of stock options.*—For purposes of paragraph (b) of this section the value of a stock option—

(1) When granted shall be an amount equal to the value of such option at the time of grant (without taking into account any conditions or restrictions imposed under the stock option or on the shares under option) determined as follows: the sum of the option premium plus the excess of the fair market value of the shares under option at the time of the grant over the price of the shares under the option, and

(2) When exercised shall be an amount equal to the value of such option at the time of exercise (without taking into account any conditions or restrictions imposed under the stock option or on the shares under option) determined as follows: the excess of the fair market value of the shares under option at the time of exercise over the sum of the option premium plus the fair market value of the shares under the option at the time of the grant.

For purposes of this paragraph the term "option premium" means the value of the shares under option. Such value shall be an amount equal to 25 percent of the fair market value of the shares under option at the time of grant without taking into account any conditions or restrictions imposed under the stock option or on the shares under option.

§ 152.132 Qualified stock bonus plans.

Stock bonus plans which meet the requirements of Section 401(a) of the Code shall not be subject to the provisions of this subpart, but shall be treated as qualified benefits in accordance with the provisions of § 201.59 of this title. Nonchargeable employer contributions to such qualified stock bonus plans shall be computed under the rules applicable to

contributions to qualified deferred profit sharing plans set forth in § 201.59(f)(2) of this title.

§ 152.133 Prior decisions and orders.

(a) *General.* This part shall not operate to permit prospective payments, awards, or grants under an executive and variable compensation plan, practice, or program, where such plan, practice, or program is subject to a Pay Board or Council decision and order, except to the extent consistent with such decision and order.

(b) *Pay adjustments subject to self administration.* Notwithstanding the provisions of paragraph (a) of this section, a decision and order relating to executive and variable compensation, not affecting employees in the food, health services, or construction industry, shall be effective only for payments, awards, or grants made with respect to plan, practice, or fiscal years (as appropriate) which begin prior to January 11, 1973. Where such a decision and order requires that payments, awards, or grants are to be charged as wages and salaries, and such payments, awards, or grants are made after January 10, 1973, such payments, awards, or grants, together with any other wage and salary increases subject to self-administration, shall be subject to the general wage and salary standard set forth in § 152.13, unless such payments, awards, or grants are made during a control year covered by a Pay Board or Council decision and order which limits wage and salary increases paid in an appropriate employee unit which includes plan, practice, or program participants. In such latter cases, the payments, awards, or grants which are to be charged as wage and salary increases may be paid only to the extent consistent with such other decision and order, as provided in § 152.1(b)(2).

(c) *Pay adjustments subject to mandatory controls.*—Where a decision and order relating to executive and variable compensation affecting employees in the food, health services, or construction industry, requires that payments, awards, or grants are to be charged as wages and salaries, then such payments, awards, or grants made after January 10, 1973, together with any other wage and salary increases, shall be subject to the rules for pay adjustments in the applicable industry, as set forth in this part.

(d) *Executive control groups.*—A decision and order of the Pay Board or Council issued prior to August 29, 1973, which applies to or affects members of an executive control group (determined pursuant to § 152.130), shall remain in effect with respect to payments, awards, or grants of items of incentive compensation with respect to the plan, practice, or program year covered by such decision and order, as provided in paragraphs (a), (b) and (c) of this section. Any payments, awards, or grants lawfully made pursuant to the terms of such decision and order shall not constitute a violation of the provisions of § 152.130.

§ 152.134 Submissions to the Council.

Any prenotification, report, or application under the provisions of this subpart must be sent to Office of Wage Stabilization, P.O. Box 983, Washington, D.C. 20044.

§ 152.135 Executive and variable compensation guidance.

(a) *Scope.*—The provisions of this section are applicable to pay adjustments—

(1) That are subject to self-administration under the provisions of subpart B of this part, and

(2) That, except in the case of stock option plans subject to § 152.126, do not apply to or affect a member of an executive control group (determined pursuant to § 152.130).

(b) *Adjustments subject to standards.*—The rules contained in this subpart, and the guidance set forth in paragraph (c) of this section, relating to executive and variable compensation, should be used in determining whether payments, awards, or grants are charged as wage and salary increases which, when added to other wage and salary increases, are subject to the general wage and salary standard set forth in § 152.13. Stock option grants under plans which meet all the requirements of § 152.126(c)(1)(i) should not exceed the aggregate share limitation applicable to such plans, except to the extent necessary to prevent gross inequities, serious market disruptions, or localized shortages of labor. Except as provided in § 152.124(d)(2)(ii) and § 152.125(d)(2)(iii), payments, awards, or grants of items of incentive compensation pursuant to plans operating under § 152.124 or practices operating under § 152.125 should not exceed the allowable amounts determined pursuant to § 152.124(d) or § 152.125(d), as applicable, except to the extent necessary to prevent gross inequities, serious market disruptions, or localized shortages of labor.

(c) *Guidance for replacement, modified, and new executive and variable compensation plans.* (1) *General.*—The guidance set forth in this paragraph should be used by employers subject to self-administration with respect to the implementation after January 10, 1973, of replacement, modified, or new executive and variable compensation plans, practices, or programs of the types covered in this subpart. For employers subject to self-administration, such implementation does not require prior approval. This paragraph provides the principles, policies, and conditions that have been used by the Pay Board and Council in their consideration of such plans, practices, or programs submitted for approval since November 14, 1972.

(2) *Replacement incentive compensation plans or practices.*—When an employer adopts a new incentive compensation plan or practice (other than a stock option plan which meets the requirements of (A) through (D) of § 152.126(c)(1)(i)) replacing such a plan or practice which has lapsed or terminated on account of the operation of time, the new plan or practice is not considered to increase wages and salaries if the aggregate amount of compensation attributable to the new plan or practice is not an increase over the aggregate amount which would have been granted under the replaced plan or practice had it not terminated. If the amount of compensation is increased over that attributable to the replaced plan or practice, the amount in excess should be treated as an increase in wages and salaries.

(3) *Modified or revised incentive compensation plans or practices.*—When an employer modifies or revises an incentive compensation plan or practice (other than a stock option plan which meets the requirements of (A) through (D) of § 152.126(c)(1)(i)), the modification or revision is not considered to increase wages and salaries if the aggregate amount of compensation attributable to the modified or revised plan or practice is not an increase over the aggregate amount attributable to the plan or practice had it not been modified or revised. If the amount of compensation is increased over that attributable to the plan or practice prior to modification or revision, the amount in excess should be treated as an increase in wages and salaries.

(4) *New incentive compensation plans or practices.*—When an employer adopts a new incentive compensation plan or practice (other than a stock option plan which meets the requirements of (A) through (D) of § 152.126(c)(1)(i)) which is neither a replacement nor modification or revision of an existing plan or practice, the amount granted with respect to the first 12 months of the operation of the plan or practice should be treated as an increase in wages and salaries. The amount so granted with respect to the first 12-month period should (within the meaning of §§ 152.124(c)(4) and 152.125(c)(4)) become the "base year amount" for such plan or practice in computing the "allowable amount" with respect to future plan years. Payments in subsequent plan years that exceed the "allowable amount" should also be considered an increase in wages and salaries.

(5) *Special rules for certain incentive compensation plans and practices.*—For purposes of paragraph (c)(4) of this section, the amount of certain types of awards should be determined as follows—

(i) *For performance share awards.*—In an amount equal to the fair market value of the stock at the time of the award assuming attainment of at least 75 percent of the performance goal allocated over the performance period.

(ii) *For phantom stock awards.*—In an amount equal to 25 percent of the fair market value of an equivalent number of actual shares of the employer at the time of the award.

(6) *Replacement stock option plans.*—If an employer subject to self-administration adopts a new stock option plan which meets the requirements of (A) through (D) of § 152.126(c)(1)(i), and the new plan replaces a stock option plan

which had met those requirements but which had lapsed—

(i) On account of the operation of time, or

(ii) Because all of the authorized shares had been the subject of option grants, or

(iii) Because the authorized shares available for award were insufficient to grant options covering the applicable aggregate share limitation; then

for purposes of determining the aggregate share limitation applicable to the new plan, the new plan and the replaced plan should be treated as a single plan.

(7) *Modified or revised stock option plans.*—If an employer modifies or revises a stock option plan which meets the requirements of (A) through (D) of § 152.126(c)(1)(i), the aggregate shares to be granted under the modified or revised plan should not exceed the aggregate shares which would have been granted under the plan had it not been modified or revised.

(8) *New stock option plans.*—If an employer adopts a new stock option plan which is neither a replacement nor a modification or revision and which meets all the requirements of (A) through (D) of § 152.126(c)(1)(i), the aggregate share limitation for the first fiscal year of operation should be 25 percent of the number of shares authorized for stock options at the time the plan was adopted. The aggregate share limitation for subsequent fiscal years should be determined in accordance with the provisions of § 152.126(d)(2)(ii).

(9) *Replacement sales or commission plans or practices and certain incentive programs.*—When an employer adopts a new sales or commission plan or practice or a production incentive program (other than a program described in § 201.61 of this title) replacing such a plan, practice, or program, the payments under the new plan, practice, or program are not considered to increase wages and salaries if the aggregate amount of compensation attributable to the new plan, practice, or program (using the new formula or method for determining payments) is not an increase over that which would have been granted (using the old formula or method for determining payment) under the plan, practice, or program had it not been terminated. If the amount of compensation is increased solely due to the change in formula or method for determining payments over that attributable under the replaced plan, practice, or program, the amount in excess should be treated as an increase in wages and salaries in the control year such amounts are paid, should be apportioned to the appropriate employee units of the plan, practice, or program participants as provided in § 152.127, and should be included in the respective units' base compensation for subsequent control years.

(10) *Modified or revised sales or commission plans or practices and certain incentive programs.*—When an employer modifies or revises a sales or commission plan or practice or a production incentive program (other than a program described in § 201.61 of this title), the payments under the modification or revision are not considered to increase wages and salaries if the aggregate amount of compensation attributable to the modified or revised plan, practice, or program (using the modified formula or method for determining payments) is not an increase over that which would have been granted (using the old formula or method for determining payments) under the plan, practice, or program had it not been modified or revised. If the amount of compensation is increased solely due to the change in formula or method for determining payments over that attributable under the modified or revised plan, practice, or program, the amount in excess should be treated as an increase in wages and salaries in the control year such amounts are paid, should be apportioned to the appropriate employee units of the plan, practice, or program participants as provided in § 152.127, and should be included in the respective units' base compensation for subsequent control years.

(11) *New sales or commission plans or practices and certain incentive programs.*—When an employer adopts a new sales or commission plan or practice or production incentive program (other than a program described in § 201.61 of this title), which is neither a replacement, nor modification or revision, of an existing plan, practice or program, the amount granted with respect to the new plan, practice, or program should be treated as an increase in wages and salaries in the control year such amounts are paid, should be apportioned to the appropriate employee units of the plan, practice, or program participants as provided in § 152.127, and should be included in the respective units' base compensation for subsequent control years.

[FR Doc.73-22997 Filed 10-25-73;2:00 pm]

COST OF LIVING COUNCIL

EXECUTIVE COMPENSATION

Questions and Answers

These "Questions and Answers", which are issued by the Cost of Living Council, are designed to provide immediate guidance in understanding and applying the new executive compensation regulations (Subpart K of Part 152 of Title 6 of the Code of Federal Regulations). Since they provide guidance of general applicability and are subject to clarification, revision, or revocation, they do not constitute legal rulings with respect to specific fact situations. Accordingly, they should not be relied upon except as general policy guidance.

(Economic Stabilization Act of 1970, as amended, Public Law 92–210, 85 Stat. 743; Public Law 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

Issued in Washington, D.C., this 25th day of October 1973.

JOHN T. DUNLOP,
Director.

QUESTIONS AND ANSWERS

1. Q. Do the new regulations mean that officers included in an executive control group (ECG) are removed from a firm's previously designated appropriate employee unit (AEU)?

A. No. Firms have two separate control and reporting requirements: (1) Continue to include members of the ECG in their present AEU and report increases on Form PB–3 if such form is otherwise required for an AEU, and (2) Report or keep records, as appropriate, of the required information for the ECG on new forms soon to be provided by the Council.

2. Q. If a firm elects to treat its ECG as though it were a separate AEU under the alternate computation rule, what methods should be used for allocating costs of benefits (both included and qualified)?

A. Actual costs applicable to the ECG are preferred. However, if such actual costs are not available reasonable prorations may be used, i.e., those benefits which are related to size of salary should be prorated by salary and those which do not vary with salary level should be prorated by number of employees or other appropriate methods. The Form PB–3A may not be used in computing salary increases under the alternate method.

3. Q. If a company employs a new president to replace the current president who will retire later, what is the effect on the ECG? The old president is appointed "Vice Chairman of the Board" pending his retirement.

A. Essentially a new position (Vice Chairman of the Board) has been created in the ECG. The salary of the new position would be added to the total of salaries in the ECG with respect to both the fiscal base date and the fiscal year. If the current president retires prior to the end of the fiscal year, the position of Vice Chairman of the Board would be deleted from total salaries for both fiscal base date and fiscal year.

4. Q. How long may a position be vacant before it must be deleted from the ECG average group salary rate?

A. There is no specific time period which can be applied. If the intent is to fill the vacant position within a reasonable time, the salary should not be deleted from the ECG average group salary rate.

5. Q. If salary increases in excess of the allowable amount of 5.5 percent have already been paid to members of the ECG during the calendar fiscal year prior to August 29, 1973, in compliance with the regulations then in effect, what action must be taken?

A. None for those paid prior to August 29, 1973. However no additional increases may be paid to members of the ECG during the remainder of the fiscal year unless the Council's approval is obtained. All increases paid during 1973 must be included in establishing the average group salary rate for the following fiscal year.

6. Q. What are reporting requirements for ECG's?

A. Firms with annual sales or revenues in excess of $250 million must report to the Council within 10 days after awards of incentive compensation have been granted. Firms with no incentive compensation plans or practices must report within 30 days following the close of their fiscal year. Reporting forms are expected to be available shortly. Firms with sales in excess of $50 million and less than $250 million are required to maintain appropriate records but have no reporting requirements. Firms with sales of $50 million or less are not required to report or keep designated records, but are still subject to the mandatory rules covering ECG's. Small business remain exempt.

7. Q. Will information reported to the Council as to salaries and/or incentive compensation be available to or released to the public?

A. Yes, to a limited extent. However, not by company or individual beyond what is already reported in Proxy Statements. The Council recognizes the sensitivity of the reported information and will respect it as such. Averages and aggregates derived from all submissions may well be published as a means of informing the public.

8. Q. If the application of these regulations imposes serious inequities within the ECG, is there opportunity for appeal?

A. Yes. Requests for exceptions, supported by evidence of such hardship or inequity, should be submitted to the Office of Wage Stabilization, P.O. Box 983, Washington, D.C. 20044.

9. Q. What is the meaning of "coextensive?"

A. For purposes of the regulations covering incentive compensation plans and practices, coextensive means "essentially the same". If membership of an AEU and participants in an incentive compensation plan unit are identical, or if all but a few members of the AEU also participate in the incentive compensation plan, the groups are coextensive.

10. Q. If the membership in an incentive compensation plan or practice unit is coextensive with the membership of an AEU, can payments in excess of the allowable amount be charged as a wage and salary increase?

A. Yes.

11. Q. If the membership in an incentive compensation plan or practice unit is coextensive with the membership of an ECG, but not coextensive with the membership of an AEU, can payments in excess of the allowable amount be charged as a wage and salary increase?

A. No.

12. Q. If doubt exists as to whether a firm's incentive compensation plan or practice unit is coextensive with an AEU, what recourse does the firm have?

A. A ruling should be requested from the Council on the facts of the particular situation.

13. Q. Are promotions in the ECG restricted by the new regulations?

A. The regulations do not limit promotions for members of the ECG. The computation of the average group salary rate measures salaries paid for particular positions, rather than salaries paid to individual employees. If an employee is promoted from one position to another, and the previously existing salaries for the positions are not changed, the average group salary rate will not increase. Therefore, there is no need to make any deductions because of the employee's promotion. See Example (3) in § 152.130(k).

14. Q. If a firm elects the alternate (PB–3) computation of salary increases, are increases attributable to promotions excluded?

A. Yes. The standard exclusions from the computation of salary increases are made.

[FR Doc.73–22998 Filed 10–25–73;2:00 pm]

federal register

FRIDAY, OCTOBER 26, 1973
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Volume 38 ■ Number 206

PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

General Wage Determination Decisions and Supersedeas Decisions

DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

Minimum Wages for Federal and Federally Assisted Construction

General wage determination decisions. General 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 these procedures to be impractical and contrary to the public interest.

General 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 general wage determination decisions. Modification and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General wage determination decisions. New General Wage Determination Decision No. AQ–4030 for the State of Florida; and AQ–3028 for the State of Rhode Island respectively.

Modifications to general wage determination decisions. Modifications to General 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:	
AQ–1004	July 27, 1973
AQ–1025; AQ–1026; AQ–1027	Sept. 14, 1973
Louisiana:	
AQ–5; AQ–6	July 20, 1973
Maryland:	
AQ–2004	Aug. 10, 1973
Massachusetts:	
AQ–3003; AQ–3004; AQ–3005; AQ–3006	Aug. 31, 1973
AQ–3008; AQ–3010	Sept. 7, 1973
AQ–3012; AQ–3013	Sept. 21, 1973
Montana:	
AQ–1041	Sept. 21, 1973
Nevada:	
AP–264	Mar. 9, 1973
AP–266	Mar. 30, 1973
AP–290	Apr. 6, 1973
AP–912	June 29, 1973
New Jersey:	
AP–829	May 18, 1973
New Mexico:	
AQ–35	Oct. 12, 1973
Ohio:	
AP–669; AP–670; AP–671; AP–672; AP–673; AP–679; AP–680; AP–681	May 25, 1973
Pennsylvania:	
AP–824; AP–825	May 18, 1973
Texas:	
AQ–10	Aug. 3, 1973
AQ–29; AQ–30	Sept. 28, 1973

Supersedeas decisions to general wage determination decisions. Supersedeas Decisions to General 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 numbers of the decisions being superseded):

Arizona:	
AQ–1006 (AQ–1050)	July 20, 1973
Louisiana:	
AP–736 (AQ–39)	June 1, 1973
Pennsylvania:	
AP–495 (AQ–2026)	Mar. 23, 1973
AP–822 (AQ–2027)	May 18, 1973
Rhode Island:	
AQ–2006 (AQ–3023)	Aug. 31, 1973
AQ–2007 (AQ–3024)	Aug. 24, 1973
AQ–2008 (AQ–3025)	Sept. 6, 1973
South Dakota:	
AQ–1045 (AQ–1051)	Oct. 12, 1973
Texas:	
AP–725 (AQ–38)	Apr. 27, 1973
AP–738 (AQ–41); AP–739 (AQ–40)	July 6, 1973

Signed at Washington, D.C., this 19th day of October 1973.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

STATE: Florida
DECISION NUMBER: AQ-4030
DESCRIPTION OF WORK: Highway Construction.

COUNTY: See below*
DATE: Date of Publication

*Counties: Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Wakulla, Walton, & Washington.

2-FLA-3-A

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Highway Construction						
Carpenters	$3.04					
Cement finishers	2.85					
Ironworkers, reinforcing	2.85					
Laborers:						
Laborers, unskilled	2.00					
Asphalt rakers	2.75					
Pipelayers	2.12					
Form setters	2.59					
Truck drivers	2.23					
Welders	3.00					
Power Equipment Operators:						
Air compressors	3.25					
Asphalt plant	2.85					
Backhoes	2.75					
Bulldozers	2.61					
Cranes, derricks, draglines	3.05					
Concrete batching plant	2.78					
Loaders, front end	2.80					
Mechanics	2.99					
Motor graders	2.83					
Motor patrols	3.05					
Oilers - Greasers	2.17					
Paving machine operator	3.00					
Rollers, finish	3.00					

NEW DECISION

STATE: Rhode Island
DECISION NO.: AQ-3028
COUNTY: Newport
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction (Consisting of single family homes and garden type apartments up to and including 4-stories).

3-R-RI-1-A 1 of 2

RESIDENTIAL CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.80	.505	.45		.005	
Bricklayers, stonemasons	8.57	.25	.35		.01	
Carpenters:						
Little Compton, Tiverton:						
Carpenters & soft floor layers	7.40	.30	.30			
Millwrights	8.20	.30	.50		.02	
Remainder of County:						
Carpenters and soft floor layers	8.15	.35	.35		.02	
Millwrights and Piledrivermen	8.75	.35	.35		.02	
Cement masons	7.95	.50	.35			
Electricians:						
Little Compton, Tiverton	8.10	.32	1%+.25	.32	½%	
Remainder of County	8.40	.38	1%+.25		.02	
Glaziers	8.23	.42	.30	a	.01	
Ironworkers:						
Str., orn., & reinf.	7.95	.50	.90+.50		.03	
Laborers, Building:						
Laborers, carpenters tender, cement finisher tender, mason tender	6.80	.40	.40		.05	
Jackhammers, paving breaker, chain saw Pipelayers, mechanical grinder, all other pneumatic tools, barco type jumping tampers	7.05	.40	.40		.05	
Plasterer tenders	7.05	.40	.40		.05	
Powdermen Blasters	7.55	.40	.40		.05	
Laborers, Wrecking:						
Laborers, signalmen	6.80	.40	.40		.05	
Adzman, burner, jackhammer	7.05	.40	.40		.05	
Lathers	5.75	.25	.20			
Marble setters, terrazzo worker and tile setters	8.55	.25	.35			
Marble, tile and terrazzo helpers	7.23		.50			
Painters:						
Little Compton & Tiverton Twps.:						
Brush	5.35	.30	.20	.20		
Structural steel & Str. Steel spray	7.70	.30	.20	.20		
Spray (other than steel)	6.35	.30	.20	.20		
Remainder of County:						
Brush & roller	7.45	.45	.45			
Structural steel & steam cleaning	7.70	.45	.45			
Spray & sand or water blasting	8.45	.45	.45			
Air power brush	7.95	.45	.45			

3-R-RI-1-A 2 of 2

RESIDENTIAL CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Plasterers	$8.15	.50	.35			
Plumbers	9.27	.50	.45		.05	
Roofers:						
Composition, waterproofers	7.85	.20	.25			
Slate, tile, precast concrete	8.05	.20	.25			
Helpers, Class "A"	7.00	.20	.25			
Helpers, Class "B"	6.45	.20	.25			
Sheet metal workers	8.73	.56	.55		.05	
Sprinkler fitters	9.07	.30	.50		.01	
Steamfitters	8.82	.35	.80		.03	
Truck Drivers, Building:						
Dumps & 2-axle equipment	6.75	.40	.50			
Trailers & 3-axle equipment	6.83	.40	.50			
Low bed trailers (24 tons & over, I-Beam trailers, Special earth moving equipment (Euclid type)	7.08	.40	.50			
Euclid type equipment over 35 tons capacity	7.33	.40	.50			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTES:
a. Paid Holidays: "D".

RI-1-FEO-1-0

RESIDENTIAL CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists pavers, and front-end loaders 3 yds. and over	$9.35	.40	.40		.05
Economobile type equipment	9.10	.40	.40		.05
Fork lift	8.85	.40	.40		.05
Firemen and Oilers	7.45	.40	.40		.05
Bulldozers, graders, spreaders, tractors scrapers, rollers and front-end loaders less than 3 yds.	8.00	.40	.40		.05
Pippin type backhoes	8.30	.40	.40		.05
Maintenance Engineers	7.90	.40	.40		.05
Well-point Installation	8.05	.40	.40		.05
Gas or elctric driven pumps, heater, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants	8.20	.40	.40		.05

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-1004 - Mod. #5						
(38 FR 20187 - July 27, 1973)						
Statewide, Arizona						
Change:						
Electricians: (Tucson Area)						
Zone B (From the 16th road mile and extend up to and incl. the 28th road mile from the City Hall in Tucson only)						
Electricians	$9.875	.45	1%+.60		1/2%	
Cable splicers	10.125	.45	1%+.60		1/2%	
Zone C (From the 28th road mile and extend up to and incl. the 46th road mile from the City Hall in Tucson only)						
Electricians	10.475	.45	1%+.60		1/2%	
Cable splicers	10.725	.45	1%+.60		1/2%	
Zone D (From the 46th road mile and extend to the outside limits of the Units Jurisdiction) and (Douglas Zone D shall be from the 16th road mile and extend to the outside limits of the Units Jurisdiction)						
Electricians	11.175	.45	1%+.60		1/2%	
Cable splicers	11.425	.45	1%+.60		1/2%	
Painters (Flagstaff Area)						
Zone A						
Brush; Soft floor layers	7.47	.38	.20	.50	.10	
Brush, steel and bridge	7.97	.38	.20	.50	.10	
Spray	7.92	.38	.20	.50	.10	
Spray, steel and bridge	8.47	.38	.20	.50	.10	
Zone B						
Brush; Soft floor layers	7.97	.38	.20	.50	.10	
Brush, steel and bridge	8.47	.38	.20	.50	.10	
Spray	8.42	.38	.20	.50	.10	
Spray, steel and bridge	8.97	.38	.20	.50	.10	
Zone C						
Brush; Soft floor layers	8.72	.38	.20	.50	.10	
Brush, steel and bridge	9.22	.38	.20	.50	.10	
Spray	9.17	.38	.20	.50	.10	
Spray, steel and bridge	9.72	.38	.20	.50	.10	
Zone D						
Brush; Soft floor layers	8.97	.38	.20	.50	.10	
Brush, steel and bridge	9.47	.38	.20	.50	.10	
Spray	9.42	.38	.20	.50	.10	
Spray, steel and bridge	9.97	.38	.20	.50	.10	

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-1025 - Mod. #5						
(38 FR 24493 - September 7, 1973)						
Pima County, Arizona						
Change:						
Plasterers:						
Zone A (0-30 miles from Tucson)	$8.57	.35	.60			
Zone B (30-40 miles from Tucson)	9.07	.35	.60			
Zone C (40-50 miles from Tucson)	9.32	.35	.60			
Zone D (Over 50 miles from Tucson)	10.07	.35	.60			
DECISION #AQ-1026 - Mod. #4						
(38 FR 25856 - September 14, 1973)						
Cochise, Graham, Pima, Pinal and Santa Cruz Counties, Arizona						
Change:						
Electricians:						
(Southeast portion of Pinal County from South of Florence to Graham County line and remaining Counties)						
Zone B (From the 16th road mile and extend up to and incl. the 28th road mile from the City Hall in Tucson only)						
Electricians	9.875	.45	1%+.60		1/2%	
Cable splicers	10.125	.45	1%+.60		1/2%	
Zone C (From the 28th road mile and extend up to and incl. the 46th road mile from the City Hall in Tucson only)						
Electricians	10.475	.45	1%+.60		1/2%	
Cable splicers	10.725	.45	1%+.60		1/2%	
Zone D (From the 46th road mile and extend to the outside limits of the units jurisdiction) and (Douglas Zone D shall be from the 16th road mile and extend to the outside limits of the units jurisdiction)						
Electricians	11.175	.45	1%+.60		1/2%	
Cable splicers	11.425	.45	1%+.60		1/2%	

DECISION #AQ-1026 (cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Plasterers: (Southern portions of Graham and Pinal Counties and remaining Cos.)						
Zone A - (0-30 miles from Tucson)	$8.57	.35	.60			
Zone B - (30-40 miles from Tucson)	9.07	.35	.60			
Zone C - (40-50 miles from Tucson)	9.32	.35	.60			
Zone D - (Over 50 miles from Tucson)	10.07	.35	.60			
DECISION #AQ-1027 - Mod. #4 (38 FR 25884 - September 14, 1973) Coconino County, Arizona						
Change: Painters:						
Zone A						
Brush	7.47	.38	.20	.50	.10	
Brush, steel and bridge	7.97	.38	.20	.50	.10	
Spray	7.92	.38	.20	.50	.10	
Zone B						
Brush	7.97	.38	.20	.50	.10	
Brush, steel and bridge	8.47	.38	.20	.50	.10	
Spray	8.42	.38	.20	.50	.10	
Zone C						
Brush	8.72	.38	.20	.50	.10	
Brush, steel and bridge	9.22	.38	.20	.50	.10	
Spray	9.17	.38	.20	.50	.10	
Zone D (Remaining Area)						
Brush	8.97	.38	.20	.50	.10	
Brush, steel and bridge	9.47	.38	.20	.50	.10	
Spray	9.42	.38	.20	.50	.10	
DECISION #AQ-5 - Mod. #3 (38 FR 19647 - July 20, 1973) Caddo & Bossier Parishes, Louisiana						
Change: Sheet metal workers	$7.07	.40	.25		.05	
DECISION #AQ-6 - Mod. #3 (38 FR 19649 - July 20, 1973) Caddo & Bossier Parishes, Louisiana						
Change: Sheet metal workers	7.07	.40	.25		.05	

Decision No. SQ-2004 - Mod. #3 (38 FR 21711 - August 10, 1973) Anne Arundel County, Maryland	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
CHANGE:						
Plumbers	$8.28	.35	.35		.04	
DECISION #AQ-3,010 - Mod. #3 (38 FR 24482 - September 7, 1973) Bristol County, Massachusetts						
Change: Bricklayers; Cement masons; Plasterers; & Stonemasons: Remainder of County	$8.60	.75	.60		.04	
DECISION #AQ-3,003 - Mod. #3 (38 FR 23691 - August 31, 1973) Essex County, Massachusetts						
Change: Roofers: Haverhill and Lawrence	6.35			f		
DECISION #AQ-3,004 - Mod. #3 (38 FR 23696 - August 31, 1973) Middlesex County, Massachusetts						
Change: Bricklayers; Stonemasons: Newton	8.75	.50	.70		.04	
Cement masons: Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Wilmington, Winchester, & Woburn	9.15	.50	.30		.05	
Newton	8.75	.50	.70		.04	
Plasterers: Newton	8.75	.50	.70		.04	
DECISION #AQ-3,005 - Mod. #3 (38 FR 23702 - August 31, 1973) Middlesex County, Massachusetts						
Change: Bricklayers; Stonemasons: Newton	8.75	.50	.70		.04	
Cement masons: Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Wilmington, Winchester, & Woburn	9.15	.50	.30		.05	
Newton	8.75	.50	.70		.04	
Plasterers: Newton	8.75	.50	.70		.04	

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-3,012 - Mod. #2 (38 FR 26536 - September 21, 1973) Norfolk County, Massachusetts						
Change:						
Bricklayers; Cement masons; Plasterers; & Stonemasons:						
Dover, Needham, & Wellesley	8.75	.50	.70		.04	
Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood, & Wrentham	8.60	.75	.60		.04	
Cement masons:						
Brookline & Milton	9.15	.50	.30		.05	
DECISION #AQ-3,013 - Mod. #2 (38 FR 26540 - September 21, 1973) Norfolk County, Massachusetts						
Change:						
Bricklayers; Cement masons; Plasterers:						
Dover, Needham, & Wellesley	8.75	.50	.70		.04	
Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood, & Wrentham	8.60	.75	.60		.04	
Cement masons:						
Brookline, & Milton	9.15	.50	.30		.05	
DECISION #AQ-3,006 - Mod. #3 (38 FR 23705 - August 31, 1973) Suffolk County, Massachusetts						
Change:						
Cement masons	9.15	.50	.30		.05	
DECISION #AQ-3,008 - Mod. #2 (38 FR 24480 - September 7, 1973) Suffolk County, Massachusetts						
Change:						
Cement masons	9.15	.50	.30		.05	

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-1041 - Mod. #1 (38 FR 26583 - September 21, 1973) Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Prairie, Powder River, Richland, Roosevelt, Rosebud, Stillwater, Sweetgrass, Treasure, Wibaux and Yellowstone Counties, Montana						
Change:						
Roofers:						
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Park, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wibaux and Yellowstone Counties						
Roofers, slate, tile, asbestos, and composition; Damp and waterproof workers	$6.155					
Kettleman	6.025					
Add:						
Painters:						
Park and Sweetgrass Counties						
Brush	6.11	.25	.20			
Spray and Steel	7.11	.25	.20			
Taping, hand	6.86	.25	.20			

DECISION #AP-264 - Mod. #4
(38 FR 6584 - March 9, 1973)
Statewide, Nevada

MODIFICATIONS P. 7

Change:

POWER EQUIPMENT OPERATORS: Clark, Esmeralda, Lincoln and Nye Counties	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I BRAKEMAN; Compressor Operator; Engineer Oiler; Generator; Heavy Duty Repairman Helper; Pump; Signalman; Switchman	$7.13	.75	1.50	.30	.02	
GROUP II CONCRETE MIXER OPERATOR, SKIP TYPE; Conveyor Operator; Fireman; Generator, Pump or Compressor, (2-5 inclusive); Generator, Pump or Compressor Portable Units (over 5 units, 10¢ per hour for each additional unit up to nine units); Hydrostatic Pump; Oiler Crusher, (Asphalt or Concrete Plant); Pland Operator, Generator, Pump or Compressor; Skiploader - Wheel type up to 3/4 yd. w/o attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler	7.37	.75	1.50	.30	.02	
GROUP III A-FRAME OR WINCH TRUCK; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power-driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine	7.61	.75	1.50	.30	.02	
GROUP IV ASPHALT PLANT FIREMAN; Boring Machine; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge Type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-Hammer - Aero Stomper; Power Sweeper; Roller (compacting); Screed (Asphalt or Concrete); Trenching Machine (up to 6 ft.)	7.72	.75	1.50	.30	.02	

MODIFICATIONS P. 8

DECISION #AP-264 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP V ASPHALT PLANT ENGINEER; Concrete Batch Plant; Backhoe (up to and incl. 3/4 yd.); Bit Sharpener; Concrete Joint Machine (Canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm. curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yd. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and incl. 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and Wheel type over 3/4 yds. & up to & incl. 1 1/2 yds.); Tractor - Bulldozer, Tamper, Scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types)	$7.91	.75	1.50	.30	.02	
GROUP VI ASPHALT OR CONCRETE SPREADING (Tamping or Finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (Cast in Place); Combination Mixer and Compressor (Gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom & similar type); Kolman Belt Loader & similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types)						

DECISION #AP-264 (Cont'd)

MODIFICATIONS P. 9

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP VI (Cont'd) Lift Mobile; Loader (Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (Tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired earth moving equip. op. (single engine - Caterpillar, Euclid, Athey Wagon, & similar types with any and all attachments over 25 yds. & up to & incl. 50 cu. yds. struck); Rubber-tired Scraper (self-loading - Paddle wheel type - John Deere, 1040 & similar single unit); Skiploader (Crawler and Wheel type - over 1 1/2 yds., up to & incl. 6 1/2 yds.); Surface Heaters and Planer; Rubber-tired Earth Moving Equip., multiple engine (up to & incl. 25 yds. struck); Trenching Machine (over 6 ft. depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger D-5 - 100 Fly wheel h.p. & over, or similar) (Bulldozer, Tamper, Scraper and Push Tractor, single engine); Tractor (Boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 ton); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. & up to 5 cu. yd. M.R.C.;						
GROUP VII CRANE (over 25 ton up to & incl. 100 tons M.R.C.; Derrick Barge, Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick, or similar type, up to & incl. 100 tons; Monorail Locomotive (Diesel, gas or electric); Motor Patrol - Blade Op. (single engine); Multiple Engine Tractor Op. (Euclid and similar type, except Quad 9 Cat); Rubber-tired Earth Moving Equip. (single engine over 50	$8.01	.75	1.50	.30	.02	

DECISION #AP-264 (Cont'd)

MODIFICATIONS P. 10

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP VII (Cont'd) yds. struck; Rubber-tired Earth Moving Equip. (multiple engine, Euclid, Caterpillar and similar) (over 25 yds. & up to 50 cu. yds. struck); Tractor Loader Op. (Crawler & wheel type over 6 1/2 yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Op. (over 5 cu. yds., MRC; Woods Mixer and similar Pugmill Equip.; Heavy Duty Repairman - Welder Combination	$8.11	.75	1.50	.30	.02	
GROUP VIII Auto Grader; Automatic Slip Form; Crane (over 100 tons); Hoist, Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator (less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (Multi engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equip. (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired Self Loading Scraper (Paddle Wheel - Auger type self-loading (2 or more units); Tandem Equip. (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing w/o Push Cat, Push-Pull (50c per hour additonal	8.25	.75	1.50	.30	.02	
GROUP IX Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cu. yds.); Remote Controlled Earth Moving Equip. ($1.00 per hour additional to base rate)	8.35	.75	1.50	.30	.02	
Carpenters (Clark, Esmeralda, Lincoln and Nye (South of Hwy #6 & incl. the town of Tonopah)	7.16	.45	.60	.80	.10	

DECISION #AP-266 - Mod. #3
(38 FR 8395 - March 30, 1973)
Clark, Lincoln and Nye (South of Highway #6) excluding the Nevada Test Site) Counties, Nevada

Change:

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP I BRAKEMAN; Compressor Operator; Engineer Oiler; Generator; Heavy Duty Repairman Helper; Pump; Signalman; Switchman	$7.13	.75	1.50	.30	.02	
GROUP II CONCRETE MIXER OPERATOR, SKIP TYPE; Conveyor Operator; Fireman; Generator, Pump or Compressor, (2-5 inclusive); Generator, Pump or Compressor Portable Units (over 5 units, 10¢ per hour for each additional unit up to nine units); Hydrostatic Pump; Oiler Crusher, (Asphalt or Concrete Plant); Pland Operator, Generator, Pump or Compressor; Skiploader - Wheel type up to 3/4 yd. w/o attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler	7.37	.75	1.50	.30	.02	
GROUP III A-FRAME OR WINCH TRUCK; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power-driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine	7.61	.75	1.50	.30	.02	
GROUP IV ASPHALT PLANT FIREMAN; Boring Machine; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge Type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-Hammer - Aero Stomper; Power Sweeper; Roller (compacting); Screed (Asphalt or Concrete); Trenching Machine (up to 6 ft.)	7.72	.75	1.50	.30	.02	

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP V ASPHALT PLANT ENGINEER; Concrete Batch Plant; Backhoe (up to and incl. 3/4 yd.); Bit Sharpener; Concrete Joint Machine (Canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm. curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yd. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and incl. 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and Wheel type over 3/4 yds. & up to & incl. 1 1/2 yds.); Tractor - Bulldozer, Tamper, Scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types)	$7.91	.75	1.50	.30	.02	
GROUP VI ASPHALT OR CONCRETE SPREADING (Tamping or Finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (Cast in Place); Combination Mixer and Compressor (Gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom & similar type); Kolman Belt Loader & similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types)						

DECISION #AP-266 (Cont'd)

MODIFICATIONS P. 13

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP VI (Cont'd) Lift Mobile; Loader (Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (Tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired earth moving equip. op. (single engine - Caterpillar, Euclid, Athey Wagon, & similar types with any and all attachments over 25 yds. & up to & incl. 50 cu. yds. struck); Rubber-tired Scraper (self-loading - Paddle wheel type - John Deere, 1040 & similar single unit); Skiploader (Crawler and Wheel type - over 1 1/2 yds., up to & incl. 6 1/2 yds.); Surface Heaters and Planer; Rubber-tired Earth Moving Equip., multiple engine (up to & incl. 25 yds. struck); Trenching Machine (over 6 ft. depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger D-5 - 100 Fly wheel h.p. & over, or similar) (Bulldozer, Tamper, Scraper and Push Tractor, single engine); Tractor (Boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 ton); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. & up to 5 cu. yd. M.R.C.;	$8.01	.75	1.50	.30	.02	
GROUP VII CRANE (over 25 ton up to & incl. 100 tons M.R.C.; Derrick Barge, Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick, or similar type, up to & incl. 100 tons; Monorail Locomotive (Diesel, gas or electric); Motor Patrol - Blade Op. (single engine); Multiple Engine Tractor Op. (Euclid and similar type, except Quad 9 Cat); Rubber-tired Earth Moving Equip. (single engine over 50						

DECISION #AP-266 (Cont'd)

MODIFICATIONS P. 14

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP VII (Cont'd) yds. struck; Rubber-tired Earth Moving Equip. (multiple engine, Euclid, Caterpillar and similar) (over 25 yds. & up to 50 cu. yds. struck); Tractor Loader Op. (Crawler & wheel type over 6 1/2 yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Op. (over 5 cu. yds., MRC; Woods Mixer and similar Pugmill Equip.; Heavy Duty Repairman - Welder Combination	$8.11	.75	1.50	.30	.02	
GROUP VIII Auto Grader; Automatic Slip Form; Crane (over 100 tons); Hoist, Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator (less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (Multi engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equip. (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired Self Loading Scraper (Paddle Wheel - Auger type self-loading (2 or more units); Tandem Equip. (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing w/o Push Cat, Push-Pull (50¢ per hour additonal	8.25	.75	1.50	.30	.02	
GROUP IX Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cu. yds.); Remote Controlled Earth Moving Equip. ($1.00 per hour additional to base rate)	8.35	.75	1.50	.30	.02	
Asbestos Workers	9.99	.71	.65		.01	
Carpenters:						
Carpenters	7.16	.45	.60	.80	.10	
Millwrights	7.46	.45	.60	.80	.10	
Sprinkler Fitters	11.30	.40	.60		.05	

DECISION #AP-290 - Mod. #3
(38 FR 8914 - April 6, 1973)
Clark (excluding the Nevada Test Site) County, Nevada

MODIFICATIONS P. 15

Change:

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I BRAKEMAN; Compressor Operator; Engineer Oiler; Generator; Heavy Duty Repairman Helper; Pump; Signalman; Switchman	$7.13	.75	1.50	.30	.02	
GROUP II CONCRETE MIXER OPERATOR, SKIP TYPE; Conveyor Operator; Fireman; Generator, Pump or Compressor, (2-5 inclusive); Generator, Pump or Compressor Portable Units (over 5 units, 10¢ per hour for each additional unit up to nine units); Hydrostatic Pump; Oiler Crusher, (Asphalt or Concrete Plant); Pland Operator, Generator, Pump or Compressor; Skiploader - Wheel type up to 3/4 yd. w/o attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler	7.37	.75	1.50	.30	.02	
GROUP III A-FRAME OR WINCH TRUCK; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power-driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine	7.61	.75	1.50	.30	.02	
GROUP IV ASPHALT PLANT FIREMAN; Boring Machine; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge Type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-Hammer - Aero Stomper; Power Sweeper; Roller (compacting); Screed (Asphalt or Concrete); Trenching Machine (up to 6 ft.)	7.72	.75	1.50	.30	.02	

DECISION #AP-290 (Cont'd)

MODIFICATIONS P. 16

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
GROUP V ASPHALT PLANT ENGINEER; Concrete Batch Plant; Backhoe (up to and incl. 3/4 yd.); Bit Sharpener; Concrete Joint Machine (Canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm. curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yd. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and incl. 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and Wheel type over 3/4 yds. & up to & incl. 1 1/2 yds.); Tractor - Bulldozer, Tamper, Scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types)	$7.91	.75	1.50	.30	.02	
GROUP VI ASPHALT OR CONCRETE SPREADING (Tamping or Finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (Cast in Place); Combination Mixer and Compressor (Gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom & similar type); Kolman Belt Loader & similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types)						

DECISION #AP-290 (Cont'd)

MODIFICATIONS P. 17

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP VI (Cont'd) Lift Mobile; Loader (Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (Tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired earth moving equip. op. (single engine - Caterpillar, Euclid, Athey Wagon, & similar types with any and all attachments over 25 yds. & up to & incl. 50 cu. yds. struck); Rubber-tired Scraper (self-loading - Paddle wheel type - John Deere, 1040 & similar single unit); Skiploader (Crawler and Wheel type - over 1 1/2 yds., up to & incl. 6 1/2 yds.); Surface Heaters and Planer; Rubber-tired Earth Moving Equip., multiple engine (up to & incl. 25 yds. struck); Trenching Machine (over 6 ft. depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger D-5 - 100 Fly wheel h.p. & over, or similar) (Bulldozer, Tamper, Scraper and Push Tractor, single engine); Tractor (Boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 ton); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. & up to 5 cu. yd. M.R.C.;	$8.01	.75	1.50	.30	.02
GROUP VII CRANE (over 25 ton up to & incl. 100 tons M.R.C.; Derrick Barge, Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick, or similar type, up to & incl. 100 tons; Monorail Locomotive (Diesel, gas or electric); Motor Patrol - Blade Op. (single engine); Multiple Engine Tractor Op. (Euclid and similar type, except Quad 9 Cat); Rubber-tired Earth Moving Equip. (single engine over 50					

DECISION #AP-290 (Cont'd)

MODIFICATIONS P. 18

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	OTHER
GROUP VII (Cont'd) yds. struck; Rubber-tired Earth Moving Equip. (multiple engine, Euclid, Caterpillar and similar) (over 25 yds. & up to 50 cu. yds. struck); Tractor Loader Op. (Crawler & wheel type over 6 1/2 yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Op. (over 5 cu. yds., MRC; Woods Mixer and similar Pugmill Equip.; Heavy Duty Repairman - Welder Combination	$8.11	.75	1.50	.30	.02	
GROUP VIII Auto Grader; Automatic Slip Form; Crane (over 100 tons); Hoist, Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator (less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (Multi engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equip. (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired Self Loading Scraper (Paddle Wheel - Auger type self-loading (2 or more units); Tandem Equip. (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing w/o Push Cat, Push-Pull (50c per hour additonal	8.25	.75	1.50	.30	.02	
GROUP IX Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cu. yds.); Remote Controlled Earth Moving Equip. ($1.00 per hour additional to base rate)	8.35	.75	1.50	.30	.02	
Asbestos workers	9.99	.71	.65		.01	
Carpenters:						
Carpenters	7.16	.45	.60	.80	.10	
Millwrights	7.46	.45	.60	.80	.10	
Sprinkler Fitters	11.30	.40	.60		.05	

Change:

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I AIR COMPRESSOR, PUMP OR GENERATOR; Engineer oiler and signal man; Heavy duty repairman's helper; Switchman or brakeman	$6.43	.75	1.50	.30	.02	
GROUP II CONCRETE MIXER, SKIP TYPE; Conveyor and beltman; Fireman; Generator, pump or compressor (2-5 units inclusive, over 5 units, $0.10 per hour for each additional unit up to 10 units, portable units); Generator, pump or compressor plant; Rotary drill helper (oilfield type); Skiploader, wheel-type, Ford, Ferguson, Jeep or similar type, 3/4 yd. or less (w/o drag-type attachments); Temporary heating plant; Truck crane oiler; Hydrostatic pump	6.67	.75	1.50	.30	.02	
GROUP III A-FRAME OR WINCH TRUCK; Dinky locomotive or tunnel motor; Elevator hoist; Equipment greaser; Ford, Ferguson or similar type (with drag-type attachments); Hydra-hammer or similar type equipment; Power concrete curing machine; Power concrete saw; Power driven jumbo form setter; Rodman and chainman; Hose carrier; Self-propelled tar pipelining machine; Stationary pipe wrapping and cleaning machine; Towblade operator	6.91	.75	1.50	.30	.02	
GROUP IV ASPHALT PLANT FIREMAN; Boring machine; Boxman or mixer box (concrete or asphalt plant); Derrickman (oilfield type); Drilling machine (including water wells); Highline cableway signalman; Instrumentman; Locomotive engineer; Power sweeper; Roller, compacting; Screed; Trenching machine (up to 6 ft. depth)	7.02	.75	1.50	.30	.02	

POWER EQUIPMENT OPERATORS: (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP V ASPHALT OR CONCRETE SPREADING, MECHANICAL TAMPING OR FINISHING MACHINE-ROLLER (all types and sizes), soil, cement, asphalt - finish; Asphalt plant engineer; Deck engine; Grade checker; Heavy duty welder; Machine tool; Pavement breaker; Pneumatic heading shield - tunnel; Road oil mixing machine; Forklift, under five tons; Rubber tired, heavy duty equipment (Oshkosh, DW, Euclid, LeTourneau, LaPlant-Choate, or similar type equipment with any type attachments); Skiploader, wheeltype, over 3/4 yds., up to and incl. 1½ yds.; Slip form pump (power driven hydraulic lifting device for concrete forms); Tractor-drag type shovel, bulldozer, tamper, scraper and push tractor	$7.21	.75	1.50	.30	.02	
GROUP VI COMBINATION HEAVY DUTY REPAIRMAN AND WELDER; Concrete mixer - paving; Concrete mobile mixer; Concrete pump or pumpcrete gun; Crushing plant engineer; Elevating grade; Heavy duty repairman; Highline cableway; Hoist (Chicago Boom and Mine); Kolman belt loader and similar type; Lift slab machine; Loader-Athey, Euclid, Hancock Sierra or similar type; Motor patrol (any type or size); Motor patrol (any type or size); Multiple engine-earth moving machinery; Party chief; Pneumatic concrete placing machine - Hackley-Preswell or similar type; Rotary drill, excluding caisson type; Skiploader, wheeltype, over 1½ yds.; Surface heater and planer; Tractor loader - crawler type - all types and sizes; Tractor, with boom attachments; Traveling pipe wrapping, cleaning and bending machine; Trenching machine (over 6 ft. depth); Universal equipment (shovel, backhoe, dragline, clamshell, derrick, derrick barge, crane, piledriver and mucking machine) Forklift, over 5 tons	7.31	.75	1.50	.30	.02	

DECISION #AP-912 (Cont'd)

MODIFICATIONS P. 21

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DRILLERS:						
DRILLER HELPERS	$6.60	.75	1.15	.30		
MOTORMAN	6.84	.75	1.15	.30		
DERRICKMAN	6.95	.75	1.15	.30		
DRILL OPERATOR; Fishing tool engineer	7.24	.75	1.15	.30		

MODIFICATIONS P. 22

DECISION #AP-829 - Mod. #2
(38 FR 13272 - May 18, 1973)
Burlington County, New Jersey

Change:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Electricians and Linemen: Electricians	$10.65	4%	1%+.30		.10	

DECISION #AQ-35 - Mod. #1
(38 FR 28529 - October 12, 1973)
Statewide, New Mexico

Change:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Carpenters (Los Alamos County)	$7.00	.38	.40		.08	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-669 - Mod. #4 (38 FR 13991 - May 25, 1973) Butler County, Ohio						
Change:						
Asbestos workers Middletown & Vicinity	$9.32	.30	.30		.01	
Laborers, (Building Construction)						
Common laborers	7.12	.45	.20		.02	
Asphalt Rakers, etc.	7.22	.45	.20		.02	
Gunnite operators, etc.	7.47	.45	.20		.02	
Mason tenders	7.45	.45	.20		.02	
DECISION #AP-670 - Mod. #4 (38 FR 13996 - May 25, 1973) Clark County, Ohio						
Change:						
Asbestos workers	9.32	.30	.30		.01	
DECISION #AP-671 - Mod. #4 (38 FR 14000 - May 25, 1973) Cuyahoga County, Ohio						
Change:						
Asbestos workers	10.68					
DECISION #AP-672 - Mod. #4 (38 FR 14004 - May 25, 1973) Franklin & Pickaway Counties, Ohio						
Change:						
Electricians:						
Franklin Co. & Remainder of Pickaway Co.	8.98	.28	1%+.60		.06	
Ironworkers (Franklin Co.)	8.85	.55	.98		.01	
Ironworkers (Pickaway Co.)	9.00	.55	.98		.01	
Painters:						
Brush, paperhanger, wall washer & rollers	7.95	.30	.15			
Structural steel & swing stage	8.25	.30	.15			
Spray	8.45	.30	.15			
Sandblasting & steam cleaning, bridges, Heavy & Highway	8.65	.30	.15			
Dry wall tapers & finishers	8.35	.30	.15			

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-673 - Mod. #4 (38 FR 14008 - May 25, 1973) Greene & Montgomery Counties, Ohio						
Change:						
Asbestos workers	$9.32	.30	.30		.01	
Electricians, Communication installer and linemen within 11 mile radius of 3rd & Main Sts. Dayton	9.18	.40	1%+.75		.5%	
Beyond 11 mile radius	9.41	.40	1%+.75		.5%	
Laborers:						
Unskilled	6.59	.50	.25			
All machine tools	6.74	.50	.25			
Tenders to bricklayers, plasterers, and masons	7.26	.50	.25			
Sewer pipelayers	6.79	.50	.25			
Bottom man	6.79	.50	.25			
Railroad spikers (by hand)	6.74	.50	.25			
Torchmen or wrecking	6.89	.50	.25			
Gunnite operator	7.09	.50	.25			
Swing scaffold over 15 ft.	6.74	.50	.25			
DECISION #AP-679 - Mod. #4 (38 FR 14033 - May 25, 1973) Portage County, Ohio						
Change:						
Asbestos workers	9.235	.35	.80		.04	
Soft floor layers	8.90	.30	.49			
Power equipment operators (Heavy & Highway Construction)						
Class I	8.12	.38	.65		.09	
Class II	8.02	.38	.65		.09	
DECISION #AP-680 - Mod. #4 (38 FR 14038 - May 25, 1973) Stark County, Ohio						
Change:						
Asbestos workers	9.235	.35	.80		.04	
Electricians	9.22	.30	1%+.10		.2%	

MODIFICATIONS P. 25

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-681 - Mod. #4 (38 FR 14042 - May 25, 1973) Summit County, Ohio						
Change:						
Asbestos workers	9.235	.35	.80		.04	
Soft floor layers	8.90	.30	.49			
Decision No. AP-824 - Mod. #4 (38 FR-13299 - May 18, 1973) Dauphin County, Pennsylvania						
CHANGE:						
Ironworkers :						
Structural	$8.46	.64	1.06		.05	
Ornamental	8.46	.64	1.06		.05	
Reinforcing	8.46	.64	1.06		.05	
Decision No. AP-825 - Mod. #4 (38 FR - 13301 - May 18, 1973) Cumberland County, Pennsylvania						
CHANGE:						
Ironworkers:						
Structural	8.46	.64	1.06		.05	
Ornamental	8.46	.64	1.06		.05	
Reinforcing	8.46	.64	1.06		.05	

MODIFICATIONS P. 26

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-10 - Mod. #5 (38 FR 21062 - August 3, 1973) Travis County, Texas						
Change:						
Building Construction:						
Plumbers	$7.45	.20	.15		.03	
Steamfitters	7.45	.20	.15		.03	
DECISION #AQ-29 - Mod. #2 (38 FR 27188 - September 28, 1973) Harris County, Texas						
Change:						
Building Construction:						
Plumbers	7.27	.32	.47	.50	.10	
DECISION #AQ-30 - Mod. #2 (38 FR 27191 - September 28, 1973) Lubbock County, Texas						
Add:						
Building Construction:						
Roofers	3.50					

SUPERSEDEAS DECISION

STATE: Arizona

COUNTIES: Greenlee, Maricopa, Mohave and Yavapai

DECISION NUMBER: AQ-1050

DATE: Date of Publication

Supersedes Decision No. AQ-1006 dated July 20, 1973, in 38 FR 19623

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	$8.98	.50	.65		.01	
BOILERMAKERS	7.95	.60	1.00	.50	.02	
BRICKLAYERS; Stonemasons: (Maricopa, Mohave and Yavapai Counties and Greenlee County North of Gila and San Francisco River) from City Hall in Phoenix:						
Zone A (0-25 miles)	9.07	.50	.45		.03	
Zone B (25-40 miles)	9.52	.50	.45		.03	
Zone C (40-70 miles)	10.43	.50	.45		.03	
Zone D (70-100 miles)	10.88	.50	.45		.03	
Zone E (100-200 miles)	11.34	.50	.45		.03	
Zone F (200 miles and over)	11.79	.50	.45		.03	
BRICKLAYERS; Stonemasons: (Greenlee County South of Gila and San Francisco River)						
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	8.25	.40	.60		.025	
Piledrivermen	8.50	.40	.60		.025	
Millwrights	8.625	.40	.60		.025	
CEMENT MASONS	8.005	.50	.60		.025	
DRYWALL INSTALLERS: From Court House in Phoenix, Mesa, incl. Williams AFB and Luke AFB:						
Tapers:						
Zone A (0-40 miles)	8.48	.275		.50	.04	
Zone B (40-60 miles)	9.48	.275		.50	.04	
Zone C (60 miles and over)	9.73	.275		.50	.04	
Texture Spraymen:						
Zone A (0-40 miles)	8.58	.275		.50	.04	
Zone B (40-60 miles)	9.58	.275		.50	.04	
Zone C (60 miles and over)	9.83	.275		.50	.04	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ELECTRICIANS: (Maricopa, Greenlee and Yavapai Counties)						
Zone A (Beginning at the northeast corner, a line extending southward on Bush Highway to McKellips Road ; a line extending east on McKellips Road to a point one mile east of the intersection of State Highway 88 and U.S. 60 and 70 near Apache Junction; southward to Baseline Road; west on Baseline Road to the intersection of Baseline Road and Ellsworth Road; south on Ellsworth Road to Hunt Highway; west on Hunt Highway to Powers Road; a line extending south on Powers Road five miles, then extending straight west to a point five miles west of Interstate 10, then northwest on a line parallel with Interstate 10 to intersect with Pecos Road, west on Pecos Road to intersect with Cotton Lane. North on Cotton Lane to Beloat Road. West on Beloat Road to Airport Road. North on Airport Road in a straight line to intersect Waddell Road. East on Waddell Road to intersect with Cotton Lane. North on Cotton Lane to Deer Valley Drive and east on Deer Valley Drive to intersection with Bush Highway and including Luke and Williams Air Force Bases)						
Electricians	$9.45	.40	1%+.60			3/4%
Cable splicers	9.92	.40	1%+.60			3/4%

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ELECTRICIANS: (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Zone B (Area outside of Zone A and bounded by a line formed by measuring sixteen (16) road miles from the outer boundaries of an area enclosed by the following boundaries: Powers Road on the east, from Hunt Highway on the south to one mile south of Pinnacle Peak Road on the north. One mile south of Pinnacle Peak Road to Cotton Lane on the west. Cotton Lane to Pecos Road on the south. Pecos Road to Price Road and from Price Road to Hunt Highway on the south. Hunt Highway to Powers Road on the east.)						
Electricians	$11.10	.40	1%+.60		3/4%	
Cable splicers	11.66	.40	1%+.60		3/4%	
Zone C (Outside edge of Zone B and extend to the outside limits of the Union's Jurisdiction.)						
Electricians	11.93	.40	1%+.60		3/4%	
Cable splicers	12.53	.40	1%+.60		3/4%	
(Greenlee County)						
Zone A (Area within 16 road miles from City Hall of Tucson and Douglas)						
Electricians	9.175	.45	1%+.60		1/2%	
Cable splicers	9.425	.45	1%+.60		1/2%	
Zone B (From the 16th road mile and extend up to and incl. the 28th road mile from the City Hall in Tucson only)						
Electricians	9.875	.45	1%+.60		1/2%	
Cable splicers	10.125	.45	1%+.60		1/2%	

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ELECTRICIANS: (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Zone C (From the 28th road mile and extend up to and incl. the 46th road mile from the City Hall in Tucson only)						
Electricians	$10.475	.45	1%+.60		1/2%	
Cable splicers	10.725	.45	1%+.60		1/2%	
Zone D (From the 46th road mile and extend to the outside limits of the units jurisdiction) and (Douglas Zone D shall be from the 16th road mile and extend to the outside limits of the units jurisdiction)						
Electricians	11.175	.45	1%+.60		1/2%	
Cable splicers	11.425	.45	1%+.60		1/2%	
ELEVATOR CONSTRUCTORS	7.58	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2%+a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS	8.58	.58	.625		.04	
LATHERS:						
(Maricopa, Mohave and Yavapai Counties and the Northern half of Greenlee County)						
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	
LATHERS:						
(Southern half of Greenlee Co.)						
Zone A (0-30 miles from Tucson)	8.66	.20				
Zone B (30-40 miles from Tucson)	9.16	.20				
Zone C (40-50 miles from Tucson)	9.41	.20				
Zone D (Over 50 miles from Tucson)	10.16	.20				
MARBLE SETTERS:						
Zone I-VI (0-40 miles from Phoenix)	7.39	.35	.30		.01	
Zone VII (40-60 miles from Phoenix)	8.515	.35	.30		.01	
Zone VIII (60-80 miles from Phoenix)	9.265	.35	.30		.01	
Zone IX (Over 80 miles from Phoenix)	9.265	.35	.30		.01	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
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 Maricopa County, Northern 2/3's of Greenlee Co. and the Southern half of Yavapai County)						
Zone A (0-40 miles from Court House in Phoenix; Luke and Williams Air Force Bases):						
Brush; Soft floor layers	7.54	.40	.35	.50	.05	
Spray	7.79	.40	.35	.50	.05	
Steel and bridge, brush	7.89	.40	.35	.50	.05	
Spray (steel and bridge)	8.09	.40	.35	.50	.05	
Zone B (41-60 miles from Court House in Phoenix):						
Brush; Soft floor layers	8.54	.40	.35	.50	.05	
Spray	8.79	.40	.35	.50	.05	
Steel and bridge, brush	8.89	.40	.35	.50	.05	
Spray (steel and bridge)	9.09	.40	.35	.50	.05	
Zone C (60 miles and over from Court House in Phoenix):						
Brush; Soft floor layers	9.04	.40	.35	.50	.05	
Spray	9.29	.40	.35	.50	.05	
Steel and bridge, brush	9.39	.40	.35	.50	.05	
Spray (steel and bridge)	9.59	.40	.35	.50	.05	
(Southern 1/3 of Greenlee County)						
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 from Tucson P. O.)	7.50	.29	.25		.02	
Painters, structural steel, brush:						
Zone A (1-30 miles from Tucson P. O.)	7.20	.29	.25		.02	
Zone B (31-40 miles from Tuscon 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 from Tucson P. O.)	8.45	.29	.25		.02	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS: (cont'd)						
(Mohave County Southern half)						
Brush; Soft floor layers	$7.20					
Brush, steel and bridge	7.45					
Spray	7.60					
(Remainder of Mohave County and the Northern half of Yavapai Co.)						
Brush	7.15					
Brush, steel and bridge	7.30					
Spray	7.60					
PLASTERERS:						
(City of Sentinel, portion of Maricopa County South thereof and Northern half of Greenlee County)	10.07	.35	.60			
(Mohave County, Yavapai County, Remainder of Maricopa County and the Southern half of Greenlee 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	
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; Steamfitters:						
FREE ZONE 0-15 miles						
The "Free Zone" (Zone I shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 miles radius from the stated base point. In addition, all areas within the City limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow, and Holbrook, will be included as the Free Zones. Any work contracted for outside of these Zones will be determined from the Phoenix and Tucson basing points.						
Zone I (0-15 miles)	8.10	.50	1.07	1.00	.10	
Zone II (15-30 miles)	8.40	.50	1.07	1.00	.10	
Zone III (30-45 miles)	8.75	.50	1.07	1.00	.10	
Zone IV (Over 45 miles)	9.85	.50	1.07	1.00	.10	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ROOFERS: (Maricopa, Mohave and Yavapai Counties)						
Roofers and waterproofers	$7.35	.40	.20		.02	
Pitch and enamelers	7.85	.40	.20		.02	
(Greenlee County)						
Zone A (0-44 miles from Tucson): Asbestos; Shingles; Tile and waterproofing	6.92	.40	.10		.02	
Zone B (Over 44 miles from Tucson)	8.17	.40	.10		.02	
SHEET METAL WORKERS: (Maricopa, Mohave and Yavapai Counties and the Northern half of Greenlee County)						
Zone I (0-25 miles from Phoenix)	7.59	.27	.32		.02	
Zone II (25-30 miles from Phoenix)	8.22	.27	.32		.02	
Zone III (50 miles and over from Phoenix)	9.56	.27	.32		.02	
SHEET METAL WORKERS: (Southern half of Greenlee County)						
Zone A (0-17 miles from Tucson)	7.58	.58	1.15		.01	
Zone B (18-23 miles from Tucson)	8.03	.58	1.15		.01	
Zone C (24-31 miles from Tucson)	8.48	.58	1.15		.01	
Zone D (32-43 miles from Tucson)	9.08	.58	1.15		.01	
Zone E (44 miles and over from Tucson)	9.53	.58	1.15		.01	
SPRINKLER FITTERS	9.30	.40	.60		.05	
TERRAZZO WORKERS:						
Zone I-VI (0-40 miles from Phoenix)	7.96					
Zone VII (40-60 miles from Phoenix)	9.085					
Zone VIII (60-80 miles from Phoenix)	9.835					
Zone IX (Over 80 miles from Phoenix)	9.835					

AQ-1050 P. 8

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Zone I (0-30 miles from Phoenix)						
Cable splicers	$9.17	.23	1%+.35		1/2%	
Linemen	8.85	.23	1%+.35		1/2%	
Equipment operators	8.33	.23	1%+.35		1/2%	
Groundmen	7.22	.23	1%+.35		1/2%	
Zone II (Other Areas)						
Cable splicers	10.30	.23	1%+.35		1/2%	
Linemen	10.00	.23	1%+.35		1/2%	
Equipment operators	9.49	.23	1%+.35		1/2%	
Groundmen	8.43	.23	1%+.35		1/2%	

FOOTNOTE:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six 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.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
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 and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer	$5.86	.50	.60		.06	
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; Lazer beam operator	5.97	.50	.60		.06	
GROUP III BANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (Pot tender); Spikers and Wrenchers	6.09	.50	.60		.06	
GROUP IV CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline)	6.18	.50	.60		.06	

LABORERS: (cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
GROUP V AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns Chair of safety belt); Tampers (mechanical-all types); Precast manhole erector	$6.33	.50	.60		.06	
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)	6.655	.50	.60		.06	
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	7.205	.50	.60		.06	
MASON TENDERS	6.505	.50	.60		.06	
PLASTERERS' TENDERS	6.85	.50	.60		.06	

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LABORERS (cont'd) TUNNEL AND SHAFT WORKERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
GROUP I BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work)	$6.065	.50	.60		.06	
GROUP II NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller)	6.21	.50	.60		.06	
GROUP III GROUT GUNMAN	6.32	.50	.60		.06	
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	6.43	.50	.60		.06	
GROUP IV - A MINERS - Tunnel (hand or machine)	6.64	.50	.60		.06	
GROUP V DIAMOND DRILL	6.785	.50	.60		.06	
GROUP V-A SHAFT AND RAISE MINER WELDER	7.005	.50	.60		.06	

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
GROUP I Air compressor operator; Field equipment serviceman helper; Heavy duty repair helper; Heavy duty welder helper; Oiler; Pump operator	$6.65	.55	.60		.03	
GROUP II Conveyor operator; Generator operator-portable; Power grizzly operator; Self-propelled chip spreading machine - conveyor operator; Watch fireman; Welding machine operator - gasoline and deisel power	6.98	.55	.60		.03	
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	7.40	.55	.60		.03	
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	7.87	.55	.60		.03	

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 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 and sizes; Conductor, brakeman, or handler; Drilling machine, including water wells; Elevating grader operator - all types and sizes (except as otherwise classified); Field equipment serviceman; Highline cableway signalman; Kolman belt loader operator or similar, w/belt width 48" or over; Locomotive engineer (including Dinky-20 tons wt. and over); Moto-paver and similar type equipment operator; Operating engineer rigger; Pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment)up to and incl. 12 cu. yds.; Power jumbo form setter operator; Pressure grout machine operator (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	$8.34	.55	.60		.03	
GROUP V-A Heavy duty mechanic and/or welder; Pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and 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 operator	8.61	.55	.60		.03	

POWER EQUIPMENT OPERATORS (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
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 operator for hoisting personnel; Grade-all operator; Helicopter hoist; Highline cableway operator (less than 20 tons rated capacity); Mass excavator operator (150 Bucyrus Erie and similar types); Mechanical hoist operator (two or more drums); Motor grade operator - any type power blade; Motor grade operator with elevating grader attachment; Mucking machine operator; Overhead crane operator; Piledriver engineer (portable, stationary or skid rig); Pneumatic-tried scraper operator-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 operator (including Gunnert, Zimmerman and similar types); Specialized power digger operator - attached to wheel-type tractor; Tower crane (or similar type) operator; Tractor operator (Pusher, Bulldozer, Scraper) 400 net horsepower and over; Tugger operator (two or more); Universal equipment operator- Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.	$8.91	.55	.60		.03	

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POWER EQUIPMENT OPERATORS (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP VII Crane operator - pneumatic or crawler (100 ton hoisting capacity and over NRC rating); Helicopter pilot - FAA qualified when used in construction work; Highline cableway operator, over 20 ton rated capacity and using traveling head and tail tower; Remote control earth moving equipment operator; Skip loader operator - all types with rate capacity of 8 cu. yds. or more; Universal equipment - shovel, backhoe, dragline, clamshell, etc., 8 cu. yds. and over	$9.44	.55	.60		.03	

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TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I PICKUP; Station wagon; Teamsters	$6.01	.50	.60		.03	
GROUP II BUGGYMOBILE, 1 C. Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.)	6.12	.50	.60		.03	
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.)	6.30	.50	.60		.03	
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	6.61	.50	.60		.03	
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.	6.75	.50	.60		.03	
GROUP V - A OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman	6.90	.50	.60		.03	

TRUCK DRIVERS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP VI						
BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); 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	7.02	.50	.60		.03	
GROUP VII						
BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle)	7.38	.50	.60		.03	
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 tank, 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	7.825	.50	.60		.03	
HEAVY DUTY MECHANIC/WELDER	8.66	.50	.60		.03	
HEAVY DUTY MECHANIC/WELDER HELPER	6.70	.50	.60		.03	
FIELD EQUIPMENT SERVICEMAN or FUEL Truck Driver	8.39	.50	.60		.03	

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Rapides
DECISION NO.: AQ-39 DATE: Date of Publication
Supersedes Decision No. AP-736, dated June 1, 1973, in 38 FR 14609.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.685	.325	.30		.04	
BOILERMAKERS	7.00	.30	.76		.02	
BRICKLAYERS - STONEMASONS	6.33					
CARPENTERS:						
Millwrights	6.65					
Carpenters	5.90					
Piledrivermen	6.40					
CEMENT MASONS	4.75					
ELECTRICIANS	7.70	.30	1%		1/2%	
ELEVATOR CONSTRUCTORS	6.32	.195	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.195	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPER (PROB.)	50%JR					
GLAZIERS	3.50					
IRONWORKERS:						
Structural; Ornamental; Reinforcing; Riggers	7.15	.30	.35		.04	
LABORERS:						
Powderman	4.20	.15	.10			
Asphalt rakers & tampers; asphalt smoothers & shovelers; blasters helpers, pipelayers (concrete & clay); Kettlemen	3.85	.15	.10			
Chain saw operator	3.80	.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)	3.75	.15	.10			
Laborers, building & construction Laborers, concrete; unskilled; mason tenders; plasterers' tenders; stone mason helpers; carpenter helpers	3.55	.15	.10			
LATHERS	4.375				.01	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Brush; paperhangers; tapers & floaters	$5.15					
Commercial steel such as schools, churches or any commercial building with finished closed in roof deck or walls	5.15					
Other commercial steel brush, spraying; stage, window jacks, flag poles and steeples	5.50					
PLASTERERS	4.75				.01	
PLUMBERS - STEAMFITTERS	7.30	.30	.25		.05	
SHEET METAL WORKERS	7.07	.40	.25		.05	
SPRINKLER FITTERS	8.20	.40	.60		.07	
ROOFERS:						
Steep	5.45					
Flat	5.20					
Helper	3.90					
Kettleman	4.95					
TRUCK DRIVERS:						
Under 1½ tons	2.00					
1½ tons and over	2.00					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
HEAVY DUTY OPERATORS						
Asphalt Spreader; Backhoe; Bulldozer, over D-4 and equivalent; Cableways; Concrete Mixer, over 16-s; Cranes; Derricks; Ditching or Trenching Machines; Draglines; Fork Lifts (setting steel, machinery or pipe); Front-End Loaders (except Farm-type tractors); Grease Serviceman; Hoist, 1 drum 4 stories or more; Hoist, (2 drums and over); Hydrolifts; Heavy Duty Mechanic; Motor Patrols; Pile-drivers; Pump, concrete (6" & over); Road Pavers; Rollers on Asphalt or Brick; Scoopmobiles; Scrapers; Sideboom Cats; Shovels; Tractor-vators; Welder, journeyman; Well Point System; Winch Cats (hoisting); Winch Truck, A-Frame (handling steel or pipe)	$7.10	.25	.15			
LIGHT DUTY OPERATORS						
Air Compressor; Asphalt Plant Operator; Bulldozers, D-4 and equivalent & under; Bullfloats; Concrete Spreader; Finishing Machines; Concrete Mixer (16-s or less); Concrete Saw; Distributors (Bitum Surface); Dowell Bar Machine; Farm-type Tractor (with all attachments except Backhoe); Fireman; Forklifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum Buff Machine; Pull Cats; Pump (3" and over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle Buggies; Sweepers on street & roads (Motorized); Winch truck, A-Frame (other than handling steel or pipe)	6.09	.25	.15			
Scaleman	5.85	.25	.15			
Oiler-Driver	5.81	.25	.15			
Mechanic Helper	5.56	.25	.15			
Oiler	5.33	.25	.15			

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Allegheny
DECISION NO: AQ-2,026 DATE: Date of Publication
Supersedes Decision No. AP-495, dated March 23, 1973, in 38 FR 7771.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories); Heavy and Highway Construction.

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.02	.35	.70			
Boilermakers	8.25	6.5%	6.5%		.01	
Bricklayers	9.255	.35	.40			
Carpenters	8.54	.5%	7%+g		.30%	
Cement masons-finishers	8.24	6%	16%			
Electricians	9.10	.35	1%+.20	.60	.05	
Elevator constructors	7.73	.17	.185	1%+a&b	.005	
Elevator constructors' helpers	5.41	.17	.185	1%+a&b	.005	
Elevator constructors' helpers (prob)	3.865					
Glaziers	7.89	.35	.44	.33	.01	
Ironworkers, structural	8.775	.785	.775		.03	
Ironworkers, reinforcing	8.775	.785	.775		.03	
Laborers:						
Laborers, carryable pumps, vest brick buggy or similar, vibrator operators walk behind forklift or similar (non-self-propelled) stripper and mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, including starting and stopping)	6.75	.40	.40			
Vest brick buggy or similar (self-propelled), power wheelbarrows and buggies, walk behind forklift or similar, (self-propelled) wagon drill helper, drill runner, drill runners' helper, (including drill mounted on truck, track or similar), blaster's helper, all operators of compacting equipment pipe layer, burner, jackhammer man-concrete buster	6.875	.40	.40			
Hod carrier, scaffold builder, bell & bottom man or furnaces and stacks, mortar mixer, mortar mixing machine (regardless of power used including starting & stopping), grout machine feeder and pump operator	7.00	.40	.40			
Concrete saw operators	7.00	.40	.40			
Gunnite nozzleman	7.25	.40	.40			
Blaster, wagon drill operator	7.45	.40	.40			
Lathers	8.28	.30	1.10		.01	
Lead burners	8.25	.30		c	.01	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Line construction (lineman, cable splicers	$10.02	.15	1%		.5%	
Groundman	6.01	.15	1%		.5%	
Winch truck operator	7.01	.15	1%		.5%	
Marble setters	8.25	.35	.50			
Marble setters' helpers	7.95		.10			
Millwrights	7.66	5%	2%+f		1%	
Painters: Commercial:						
Brush	8.38	.27%	.20			
Paperhangers	8.43	.27%	.20			
Spray	8.88	.27%	.20			
Painters; Industrial:						
Brush	8.68	.27%	.20			
Spray	9.18	.27%	.20			
Piledrivermen	9.27	5%	7%		.50%	
Plasterers	7.58	.37	.50			
Plumbers	9.11	.60	.625		.125	
Roofers:						
Composition, Slate, tile	8.59	4%	.95		.035	
Sheet metal workers	8.23	.45	.70			
Steamfitters	8.79	.60	1.10		.065	
Stonemasons	9.155	.35	.50			
Sprinkler fitters	8.865	.25	.40		.04	
Soft floor layers, carpet cutters	8.245	5%	5%+d		.50%	
Terrazzo workers	8.775	.35	.50			
Terrazzo workers	9.865	.35	.10			
Terrazzo workers' helpers, dry grinders	8.355	.35	.10			
Tile setters	6.85	.35	.95			
Welders-receive rate prescribed for craft performing operation to which welding is incidential						

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
b. 6 paid holidays: A through F.
c. Paid holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the day preceeding and following the holiday.
d. Employer contributes 4.5% of gross pay to a saving fund.
f. Employer contributes 2½% of gross wages to a saving fund.
g. Employer contributes 6% of gross wages to a saving fund.

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Austin-Western or similar type up to 25 ton, austin-western or similar type 25 ton or over, auto greder (CMI or similar), backhoe, batch plant-when conveyors are used for direct feeding or discharge, batch plant - no conveyors for direct feeding or discharge (without oiler) cableway, caisson drill, central mix plant, cranes (excluding overhead) (truck or crawler type) cranes - tower (mobile) cranes tower (climbing type), derrick-traveler (self propelled), derrick (all types) (when assistance required it will be an oiler or apprentice), derrick boats, dragline, dredge, engineer-maintenance (mechanic weekly rated), franki or similar type, pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes, Hi Lift 4 yds. or over hoist-hod (2 cages up to 10 floors) hoist-single cage with chicago boom attached hoist (50 ft. or over) (stacks stoves or furnaces), hoist (slipform jobs) hop-to or similar type with 180° swing, hop-to or similar type with 360° swing, koeal, koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobile or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver - guard rail (truck mounted pumpkrete-mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar, tractors - boom mounted (all types) tractors (all types with hydraulic backhoe attached), tug boat, whirley	$9.425	.50	.50		.09

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Austin-Western or similar type up to 25 ton with jib, austin western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up to & incuding 150 ft. (truck or crawler type) cranes - mobile (any type 15 ton or over) hoist-hod (2 cages over 10 floors)	$9.675	.50	.50		.09
Cranes (boom or mast over 150 ft. up to & including 200 ft. (truck or crawler type), engineer - lead	9.925	.50	.50		.09
Cranes (boom or mast over 200 ft. +.75	10.175	.50	.50		.09
Asphalt Plant Operator, athey loader, auger - truck or tractor mounted, back filling machine, boat - material or personnel carrying (powered) boat or job work (inboard or outboard), bulldozer, bable layer, compactor with blade, concrete belt placer, crane - overhead, crushing & screening plants, drill - davey or similar type, drill - core (truck or skid mounted), drill - well & core (truck mounted) elevator (new buildings and major remodeling old), euclid loader, excavating equipment (all other), forklift-lull or similar, greder, greder-elevating, greaser-equipment (heed), Hi-Lift less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic), mixer - paving, mucking machine, pipe cleaning machine, refrigeration plant (used for constr. jobs ie, cooling, concrete & holding banks), ross carrier (or similar type) scoop (single bowl) self-powered & tractor drawn) spreader - concrete, asphalt and stone					

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BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Tower Mobile (hoisting or lowering material) trencher, well point systems, grout pump (10 H.P. or over) power operator asphalt (spreader), pumpkrete or similar type (not self-propelled) pumpkrete machine operator (stationary), tire repairman (when assigned to job), welder repairman)	$9.275	.50	.50		.05
Boiler, compactor (ridden or self-propelled), crane (carry) curb builder (self propelled) drills-well and horizontal, elevator (alterations of old building), forklifts (ridden or self-propelled), hoist one drum (regardless of power used) pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabiliser (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finishing (CMI or similar type), tugger, truck (winch) truck or hydraulic boom (when hoisting & placing), ballast regulator, boring machine, broom, power (except push type), conveyor over 1 and up to units (regardless of power used) form line machine, hoists (monorail) regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used), mixer mortar - over 10 cu. ft. (regardless of power used), spray cure machine (power driven steam jenny (or similar type) syphon (steam or air), welding machine single (300 amp or over) (other than electrically driven	8.70	.50	.50		.09
Conveyors 4 units or more	9.20	.50	.50		.09
Conveyor one (1) unit (regardless of power used), heaters - up to and including Jack Motor Hydraulic (single type_ power driven, ladavator, mixer mortar (10 cubic ft. or under), mulching machine, pin puller (powered), pulverizer, seeding machine,					

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BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck cranes 50 ton or over	$7.95	.50	.50		.09
Cranes truck oiler & fireman	7.80	.50	.50		.09
Oiler, mechanic helper	7.70	.50	.50		.09

PA-2-TR-1-F

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Truck Drivers:					
Warehousemen, service trucks (pick-up, jeep, station wagon, panel truck)	$5.855	.30	.30	a	
Dumps and flat tops	5.905	.30	.30	a	
Transit-mix, single axle	5.93	.30	.30	a	
Transit-mix, tandem	5.93	.30	.30	a	
Distributed truck over 33,000 lbs. gross weight	5.905	.30	.30	a	
Distributed truck up to 33,000 lbs. gross weights	6.055	.30	.30	a	
Heavy duty trailers with high bed, 4 wheels	5.955	.30	.30	a	
Heavy duty trailers with low bed, 6 to 16 wheels	6.255	.30	.30	a	
Trucks with dolly	6.055	.30	.30	a	
Euclids or equivalent	6.055	.30	.30	a	
Truck with dump trailers or tandems	6.055	.30	.30	a	
Winch trucks	6.23	.30	.30	a	
Towing equipment off job site	6.055	.30	.30	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Veterns Day & Good Friday, provide the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

PA-2-LAB-2-3-K

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Laborers:					
Construction laborer (including tenders handling salamanders, L.P. gas heaters or similar, etc.), Air or electric impactor wrench, Air tamper operator, Asphalt tampers, Batcherman (weigh), Blaster's helper, Blower man (bulk cement), Brakeman, Coffer dam, Concrete pitman, puddler including vibrator operator, Drill runner's helper (includes drill mounted on truck, track or similar and Davey drills (spots-clean-up & helps to maintain), Fence construction, Form stripper and mover, Hydro-Jet blaster nozzlemen, Manually moved emulsion sprayer, Radio actuated traffic control operator (non-automatic), Rip rap work, Scaffolds and runways (as per agreement of record), Sheeters and shorers, structural concrete top surfacer, Walk behind street sweeper, Welder's helper (pipeline), Wood chipper	$5.86	.30	.30		
Asphalt, batch and concrete plant operator (manually operated), Asphalt rakers, Burner, Caisson men (open air), carryable pumps, Chain saw operator, Chipping hammer or similar (air or otherwise), Combination tamper and vibrator, Concrete buster (paving breaker), Cribbing (concrete or steel), Curb machine operator (asphalt and concrete) (walk behind), Earth drill, Fork lift (walk behing), Form setter (road forms line man), Handyman, Highway slab reinforcement placers (incl. joint and basket setter), Hydraulic pipe pusher, Jack hammer operator, Liner plates (tile or vitrified clay), Manually operated diamond head core drill, Mechanical joint sealer, Dope pot, and Tar kettle, Mortar mixer (ahnd or machine), Pin drivers or puller (power-highway), Pipe layers, Plant set-up, Maintenance men, Portable single unit conveyor, Post hole auger (2 or 4 cycle (hand operated), Power fence operator, Power wheelbarrows and buggies, Rail porter, or similar, Screed operator					

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Laborers (cont'd):					
Signal man, Whacker	$6.05	.30	.30		
All Railroad Track Work:					
Adzing machine, Ballast router, Bolting machine, Power jacks, Rail drills, Railroad brakemen, Rail saws, Spike drivers, Spike pullers, Tamping machine	6.05	.30	.30		
Cement mortar lining car pusher, Cement mortar mixer (pipe relining), Cement saw operator (walk behind), Form setter (road forms-lead man), Grout machine operator, Gunnite (nozzle and machine man), Paving block rammers, Wagon drill (air track or similar) operators, Walk behind power rollers (1 or 2 barrel), Walk behind roller and tamper, Walk behind ditching machine (trencher or similar)	6.36	.30	.30		
Blacksmith, Blaster, Brick and block pavers (wood, belgain and asphalt), Curb cutters and setters, Manhole or catch basin builder (brick, block, concrete or any prefabrication)	6.48	.30	.30		
Multi-plate pipe (aligning and securing) Placing wire mesh on gunite projects, Reinforcing steel placers (bending, aligning and securing)	6.55	.30	.30		
Welder (pipeline)	7.70	.30	.30		
Tunnel and Shaft Work (Inside):					
Change house attendant	5.86	.30	.30		
Muckers, Brakemen and all other labor (inlcudes installation of utility lines), Signal man, Drill runner helper	6.10	.30	.30		
Miners and drillers (including lining, supporting and form workmen, setting of shields, miscellaneous equipment & jumbos)	6.36	.30	.30		
Caisson and tunnel men under pressure (0-18 pounds)	6.48	.30	.30		
Reinforcing steel placers (bending, aligning and securing)	6.55	.30	.30		
Carpenters	7.71	6%	6%		
Carpenter-welder	7.94	.475	.475		
Cement masons	7.17	.43	1.08		
Piledrivermen	8.41	5%	6%		
Ironworkers	6.505	.435	.62		.01

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Austin Western or Similar (25 ton & over) Austin Western or Similar (under 25 ton) Autograder (C.M.I. & similar) Backfiller, Backhoe - 360° Swing, Cableway, Caisson Drill (Similar to Hugh Williams) Central Mix Plant, Cooling Plant, Concrete Paving Mixer, Cranes, Cranes (Tower - Stationary-Climbing Tower Crane) Derrick, Derrick Boat, Dragline, Dredge, Dredge Hydraulic (1 Leverman - 1 Oiler - Apprentice) Elevating Grader, Franki Pile Machine, Gradall (Remote control or otherwise) Grader (Power-Fine Grade) Guard Rail Post Driver (Truck Mtd.) Guard Rail Post Driver (Skid Type) (Self Propelled - Arrow or similar) Helicopter (over 1500 lb. lift) Helicopter (under 1500 lb. lift) Hilift (4cy. and over) Hoists 2 Drums or more (in one unit) Koal, Koering Skooper, Lead Mechanic, Locomotive (std. Guage) Mix Mobile, Mix Mobile (with self loading Attachment) Mucking Machine (Tunnel) Pile Driver Machine, Pipe Extrusion Machine, Presplitter Drill (Self Contained) Quad Nine, Refrigeration Plant (Soil stabilization) Scraper (Multi-bowl) Shovel - Power, Slip Form Paver C.M.I. and similar) Trenching Machine (30,000 lb. and over) Trenching Machine (under 30,000 lb.) Tunnel Machine (Mark XXI Jarva or similar) Whirley	$8.23	.35	.50		.04
Asphalt Paving Machine (Spreader) Asphalt Plant Operator, Athey Loader, Auger (Tractor Mtd,) Auger (Truck Mtd.) Backhoe (Rear Pivotal Swing) (180° Swing) Boring Machine, Cable Placer or Layer, Compactor with blade, Concrete Batch Plant (Electronically Synchronized) Concrete Belt Placer (C.M.I. and Similar) Concrete Mixer (over 1 cy.) Concrete Pump, Core Drill (Truck or skid Mtd. - similar to Penn Drill) Dozer, Euclid Loader, Grader - Power, Grease Unit Operator (Head) Hilift (under 4 cy,) Job Work Boat (Powered)					

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Jumbo Operator, Locomotive (narrow guage) Mechanic, Minor Equipment Operator (Accumulative four units) Mucking Machine, Over-head Crane, Roller-power-asphalt, Ross Carrier, Scraper, Side Boom or tractor mounted boom, stone Crusher (Screening-Washing Plants) Stone Spreader (Self-propelled Truck Mounted Drill (Davey or similar) Welder and Repairman, Well Point Pump Operator	$ 7.97	.35	.50		.04
Compactors/Rollers (Static or Vibratory) (Self-propelled) Minor Equipment Operator (Two to three units) Soil Stabilizer Machine, Tire Repairman Tube Finisher (C.M.I. or similar) Well Driller and Horizontal	5.61	.35	.50		.04
Ballast Regulator, Compressor, Concrete Finishing Machine and Spreader, Concrete Mixer (1 cy. and under with Skip) Concrete Saw (Ridden or self-propelled) Conveyor, Curb Builder (Self-propelled) Elevator (Material hauling only) Forklift (Ridden or self-propelled) Form line Machine, Generator, Grout Pump, Heater (Mechanical) Hoist (single drum) Ladavator, Light Plant, Mulching Machine, Pavement Breaker (self-propelled or ridden) Personnel Boat (Powered) Pulverizer, Pumps, Seeding Machine, Spray Cure Machine (Power driven) Subgrader, Tie Puller, Tie Tamper (Multi-head) Tractor-snaking and hauling, Tugger, Welding Machine (Gas or Diesel) Winch or Hydraulic Boom Truck (when hoisting and placing)	5.16	.35	.50		.04
Deck Hand, Farm Tractor, Fireman on Boiler, Mechanic's Helper, Oiler, Power Broom, Side Delivery Shoulder Spreader	5.01	.35	.50		.04

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HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pick-up, and similar equipment, parts man and warehousemen)	$6.16	6%	3.5%			
Trucks over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors, and combination fuel and grease)	6.30	6%	3.5%			
Tri-axle trucks	6.39	6%	3.5%			
Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 ft. width (such as euclids: end or belly dump, single twin-engined or tandem: athey wagon: pay loader, tournawagons, and similar equipment when not self-loaded rated under forty-five tons)	6.39	6%	3.5%			
Heavy off-the-road equipment (rated at forty-five tons or over)	6.48	6%	3.5%			
Heavy duty trailer, such as low Boy, hi-boy, pole trailer, A-Frames (when used for transporting materials), dumpsters, ross carriers, form trucks, dual-purpose trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), mechanical tailgate trucks, bucket self-loading trucks, farm tractors (when pulling and hauling), fork lift trucks (in storage areas and warehouses)	6.46	6%	3.5%			
Single-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	6.21	6%	3.5%			
Tandem-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	6.30	6%	3.5%			
Tri-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	6.39	6%	3.5%			
Ready-mixed Concrete Trucks with towed or built-in attachments (10¢ per hour additionsl to respecitve size truck						
Tar and Asphalt Distributing trucks (all liquid tank trucks, straight and semi, including water, sprinkler, oil trucks, etc.)	6.30	6%	3.5%			
Tar and Asphalt Trailer Trucks	6.39	6%	3.5%			
Trucks with Dolly or Trailer	6.26	6%	3.5%			
Bottom or Belly-Dump Trucks	6.48	6%	3.5%			

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: AQ-2,027
COUNTY: Lawrence
DATE: Date of Publication
Supersedes Decision No. AP-822, dated May 18, 1973, in 38 FR 13295.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

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BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asbestos workers	$9.69	.30	.30		.02	
Boilermakers	8.25	6.5%	6.5%		.01	
Bricklayers	8.02	.35	7%			
Carpenters	8.54	5%	7%+1		.30%	
Cement masons	8.70					
Electricians	9.56	.30	15%+.10			
Elevator constructors	8.59	.345	.23	2%+b+c	.015	
Elevator constructors' helpers	70%ofJR	.345	.23	2%+b+c	.015	
Elevator constructors' helpers (prob.)	50%ofJR					
Glaziers	8.57	.35	.20		.01	
Ironworkers, structural, orn., & rein.	9.37	.35	.45		.05	
Laborers:						
Laborers, carryable pumps, vest brick buggy or similar, vibrator operators, walk behind forklift or similar (non self-propelled) stripper and mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, including starting & stopping)	6.70	.40	.40			
West brick buggy or similar (self-propelled), power wheelbarrows and buggies, walk behind forklift or similar, (self-propelled) wagon drill helper, drill runner, drill runners' helper, (Including drill mounted on truck, track or similar), blaster's helper, all operators of compacting equipment, pipe layer, burner, jackhammer man-concrete buster	6.825	.40	.40			
Hod carrier, scaffold builder, bell & bottom man on furnaces & stacks, mortar mixer, mortar mixing machine (regardless of power used, including starting & stopping) grout machine feeder & pump operator & concrete saw op.	6.95	.40	.40			
Gunnite nozzleman	7.20	.40	.40			
Blaster, wagon drill operator	7.40	.40	.40			
Lathers:						
Wilmington, Plain Grove, Hickory, Washington and Scott Townships	8.18					
Balance of County	8.225	.35	.10		.01	
Lead burners	8.25	.30		a	.01	

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BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Line Construction:						
Linemen	$6.94	.15	1%			
Cable splicer & dynamiteman	6.94	.15	1%			
Groundman-truck driver	4.92	.15	1%			
Groundman	4.73	.15	1%			
Marble setters	8.02	.35	7%			
Marble setters' helpers	7.95		.10			
Millwrights	7.66	5%	2%+2%		1%	
Painters, commercial:						
Brush	6.50	.30	.30		.01	
Roller	6.80	.30	.30		.01	
Spray	7.50	.30	.30		.01	
Painter, Industrial:						
Brush	7.20	.30	.30		.01	
Roller	7.50	.30	.30		.01	
Spray	8.20	.30	.30		.01	
Piledrivermen	9.27	5%	7%		.50%	
Plasterers	8.90					
Plumbers and steamfitters (Ellwood City)	9.53	.381	.381		.05	
Plumbers and steamfitters - Remainder of County	8.53	.25			.05	
Roofers	7.52	.35	.50		.01	
Sheet metal workers	8.23	.45	.70			
Soft floor layers	8.245	5%	5%+d		.50%	
Stone masons	8.02	.35	7%			
Sprinkler fitters	8.75	.30	.50		.05	
Terrazzo workers	8.02	.35	7%			
Terrazzo workers' helpers	7.95		.10			
Tile setters	8.02	.35	7%			
Tile setters' helpers	7.95		.10			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

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PAID HOLIDAYS (Where Applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 8 paid holidays, A through F and Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit and 6 paid holidays, A through F.

c. Six paid holidays: A through F.

d. Employer contributes 4.5% of gross pay to a saving fund.

f. Employer contributes6% of gross earning to a saving fund.

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BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Austin-Western or similar type up to 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar), backhoe, batch plant-when conveyors are used for direct feeding or discharge, batch plant - no conveyors for direct feeding or discharge (without oiler) cableway, caisson drill, central mix plant, cranes (excluding overhead) (truck or crawler type) cranes - tower (mobile) cranes tower (climbing type), derrick-traveler (self propelled), derrick (all types) (when assistance required it will be an oiler or apprentice), derrick boats, dragline, dredge, engineer-maintenance (mechanic weekly rated), franki or similar type, pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes, 2½ Lift 4 yds. or over hoist-hod (2 cages up to 10 floors) hoist-single cage with chicago boom attached hoist (50 ft. or over) (stacks stoves or furnaces), hoist (slipform jobs) hop-to or similar type with 180° swing, hop-to or similar type with 360° swing, koal, koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobile or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver - guard rail (truck mounted pumpkrete-mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar, tractors - boom mounted (all types) tractors (all types with hydraulic backhoe attached), tug boat, whirley	$9.425	.50	.50		.09	

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Austin-Western or similar type up to 25 ton with jib, austin western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up to & including 150 ft. (truck or crawler type) cranes - mobile (any type 15 ton or over) hoist-hod (2 cages over 10 floors)	$9.675	.50	.50		.09	
Cranes (boom or mast over 150 ft. up to & including 200 ft. (truck or crawler type), engineer - lead	9.925	.50	.50		.09	
Cranes (boom or mast over 200 ft. +.75	10.175	.50	.50		.09	
Asphalt Plant Operator, athey loader, auger - truck or tractor mounted, back filling machine, boat - material or personnel carrying (powered) boat or job work (inboard or outboard), bulldozer, cable layer, compactor with blade, concrete belt placer, crane - overhead, crushing & screening plants, drill - davey or similar type, drill - core (truck or skid mounted), drill - well & core (truck mounted) elevator (new buildings and major remodeling old), euclid loader, excavating equipment (all other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), Hi-Lift less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic), mixer - paving, mucking machine, pipe cleaning machine, refrigeration plant (used for constr. jobs ie, cooling, concrete & holding banks), ross carrier (or similar type) scoop (single bowl) self-powered & tractor drawn) spreader - concrete, asphalt and stone						

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Tower Mobile (hoisting or lowering material) trencher, well point systems, grout pump (10 H.P. or over) paver operator asphalt (spreader), pumpcrete or similar type (not self-propelled) pumpcrete machine operator (stationary), tire repairman (when assigned to job), welder repairmen)	$9.275	.50	.50		.09	
Boiler, compactor (ridden or self-propelled), crane (carry) curb builder (self propelled) drills-well and horizontal, elevator (alterations of old building), forklifts (ridden or self-propelled), hoist one drum (regardless of power used) pavement breaker (self-propelled or ridden), pipe dream, roller, sav (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for sucking and hauling), tube finishing (CMI or similar type), tugger, truck (winch) truck or hydraulic boom (when hoisting & placing), ballast regulator, boring machine, broom, power (except push type), conveyor over 1 and up to units (regardless of power used) form line machine, hoists (monorail) regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used), mixer mortar - over 10 cu. ft. (regardless of power used), spray cure machine (power driven steam jenny (or similar type) syphon (steam or air), welding machine single (300 amp or over) (other than electrically driven	8.70	.50	.50		.09	
Conveyors 4 units or more	9.20	.50	.50		.09	
Conveyor one (1) unit (regardless of power used), heaters - up to and including Jack Motor Hydraulic (single type_ power driven, ladevator, mixer mortar (10 cubic ft. or under), mulching machine, pin puller (powered), pulverizer, seeding machine,						

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck cranes 50 ton or over	$7.95	.50	.50		.09	
Cranes truck oiler & fireman	7.80	.50	.50		.09	
Oiler, mechanic helper	7.70	.50	.50		.09	

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Warehousemen, service trucks (pick-up, jeep, station wagon, panel truck)	$5.855	.30	.30	a		
Dumps and flat tops	5.905	.30	.30	a		
Transit-mix, single axle	5.93	.30	.30	a		
Transit-mix, tandem	5.93	.30	.30	a		
Distributed truck over 33,000 lbs. gross weight	5.905	.30	.30	a		
Distributed truck up to 33,000 lbs. gross weights	6.055	.30	.30	a		
Heavy duty trailers with high bed, 4 wheels	5.955	.30	.30	a		
Heavy duty trailers with low bed, 6 to 16 wheels	6.255	.30	.30	a		
Trucks with dolly	6.055	.30	.30	a		
Euclids or equivalent	6.055	.30	.30	a		
Truck with dump trailers or tandems	6.055	.30	.30	a		
Winch trucks	6.23	.30	.30	a		
Towing equipment off job site	6.055	.30	.30	a		

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Veterns Day & Good Friday, provide the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Laborers:						
Construction laborer (including tenders handling salamanders, L.P. gas heaters or similar, etc.), Air or electric impactor wrench, Air tamper operator, Asphalt tampers, Batcherman (weigh), Blaster's helper, Blower man (bulk cement), Brakeman, Coffer dam, Concrete pitman, puddler including vibrator operator, Drill runner's helper (includes drill mounted on truck, track or similar and Davey drills (spots-clean-up & helps to maintain), Fence construction, Form stripper and mover, Hydro-Jet blaster nozzlemen, Manually moved emulsion sprayer, Radio actuated traffic control operator (non-automatic), Rip rap work, Scaffolds and runways (as per agreement of record), Sheeters and shorers, structural concrete top surfacer, Walk behind street sweeper, Welder's helper (pipeline), Wood chipper	$5.71	.30	.30			
Asphalt, batch and concrete plant operator (manually operated), Asphalt rakers, Burner, Caisson men (open air), carryable pumps, Chain saw operator, Chipping hammer or similar (air or otherwise), Combination tamper and vibrator, Concrete buster (paving breaker), Cribbing (concrete or steel), Curb machine operator (asphalt and concrete) (walk behind), Earth drill, Fork lift (walk behing), Form setter (road forms line man), Handyman, Highway slab reinforcement placers (incl. joint and basket setter), Hydraulic pipe pusher, Jack hammer operator, Liner plates (tile or vitrified clay), Manually operated diamond head core drill, Mechanical joint sealer, Dope pot, and Tar kettle, Mortar mixer (ahnd or machine), Pin drivers or puller (power-highway), Pipe layers, Plant set-up, Maintenance men, Portable single unit conveyor, Post hole auger (2 or 4 cycle (hand operated), Power fence operator, Power wheelbarrows and buggies, Rail porter, or similar, Screed operator						

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Laborers (cont'd):					
Signal man, Whacker	$5.93	.30	.30		
All Railroad Track Work:					
Adzing machine, Ballast router, Bolting machine, Power jacks, Rail drills, Railroad brakemen, Rail saws, Spike drivers, Spike pullers, Tamping machine	5.93	.30	.30		
Cement mortar lining car pusher, Cement mortar mixer (pipe relining), Cement saw operator (walk behind), Form setter (road forms-lead man), Grout machine operator, Gunnite (nozzle and machine man), Paving block rammers, Wagon drill (air track or similar) operators, Walk behind power rollers (1 or 2 barrel), Walk behind roller and tamper, Walk behind ditching machine (trencher or similar)	6.24	.30	.30		
Blacksmith, Blaster, Brick and block pavers (wood, belgain and asphalt), Curb cutters and setters, Manhole or catch basin builder (brick, block, concrete or any prefabrication)	6.36	.30	.30		
Multi-plate pipe (aligning and securing) Placing wire mesh on gunite projects, Reinforcing steel placers (bending, aligning and securing)	6.55	.30	.30		
Welder (pipeline)	7.70	.30	.30		
Tunnel and Shaft Work (Inside):					
Change house attandant	5.69	.30	.30		
Muckers, Brakemen and all other labor (inlcudes installation of utility lines), Signal man, Drill runner helper	5.93	.30	.30		
Miners and drillers (including lining, supporting and form workmen, setting of shields, miscellaneous equipment & jumbos)	6.24	.30	.30		
Caisson and tunnel men under pressure (0-18 pounds)	6.36	.30	.30		
Reinforcing steel placers (bending, aligning and securing)	6.55	.30	.30		
Carpenters	7.37	6%	6%		
Carpenter-welder	7.61	.455	.455		
Cement masons	7.17	.43	1.08		
Piledrivermen	8.41	5%	6%		

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Austin Western or Similar (25 ton & over) Austin Western or Similar (under 25 ton) Autograder (C.M.I. & similar) Backfiller, Backhoe - 360° Swing, Cableway, Caisson Drill (Similar to Hugh Williams) Central Mix Plant, Cooling Plant, Concrete Paving Mixer, Cranes, Cranes (Tower - Stationary-Climbing Tower Crane) Derrick, Derrick Boat, Dragline, Dredge, Dredge Hydraulic (1 Leverman - 1 Oiler - Apprentice) Elevating Grader, Franki Pile Machine, Gradall (Remote control or otherwise) Grader (Power-Fine Grade) Guard Rail Post Driver (Truck Mtd.) Guard Rail Post Driver (Skid Type) (Self Propelled - Arrow or similar) Helicopter (over 1500 lb. lift) Helicopter (under 1500 lb. lift) Hilift (4cy. and over) Hoists 2 Drums or more (in one unit) Kocal, Koering Skooper, Lead Mechanic, Locomotive (std. Guage) Mix Mobile, Mix Mobile (with self loading Attachment) Mucking Machine (Tunnel) Pile Driver Machine, Pipe Extrusion Machine, Presplitter Drill (Self Contained) Quad Nine, Refrigeration Plant (Soil stabilization) Scraper (Multi-bowl) Shovel - Power, Slip Form Paver C.M.I. and similar) Trenching Machine (30,000 lb. and over) Trenching Machine (under 30,000 lb.) Tunnel Machine (Mark XXI Jarva or similar) Whirley	$8.23	.35	.50		.04
Asphalt Paving Machine (Spreader) Asphalt Plant Operator, Athey Loader, Auger (Tractor Mtd,) Auger (Truck Mtd.) Backhoe (Rear Pivotal Swing) (180° Swing) Boring Machine, Cable Placer or Layer, Compactor with blade, Concrete Batch Plant (Electronically Synchronized) Concrete Belt Placer (C.M.I. and Similar) Concrete Mixer (over 1 cy.) Concrete Pump, Core Drill (Truck or skid Mtd. - similar to Penn Drill) Dozer, Euclid Loader, Grader - Power, Grease Unit Operator (Head) Hilift (under 4 cy,) Job Work Boat (Powered)					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Jumbo Operator, Locomotive (narrow guage) Mechanic, Minor Equipment Operator (Accumulative four units) Mucking Machine, Over-head Crane, Roller-power-asphalt, Ross Carrier, Scraper, Side Boom or tractor mounted boom, stone Crusher (Screening-Washing Plants) Stone Spreader (Self-propelled Truck Mounted Drill (Davey or similar) Welder and Repairman, Well Point Pump Operator	$ 7.97	.35	.50		.04
Compactors/Rollers (Static or Vibratory) (Self-propelled) Minor Equipment Operator (Two to three units) Soil Stabilizer Machine, Tire Repairman Tube Finisher (C.M.I. or similar) Well Driller and Horizontal	5.61	.35	.50		.04
Ballast Regulator, Compressor, Concrete Finishing Machine and Spreader, Concrete Mixer (1 cy. and under with Skip) Concrete Saw (Ridden or self-propelled) Conveyor, Curb Builder (Self-propelled) Elevator (Material hauling only) Forklift (Ridden or self-propelled) Form line Machine, Generator, Crout Pump, Heater (Mechanical) Hoist (single drum) Ladavator, Light Plant, Mulching Machine, Pavement Breaker (self-propelled or ridden) Personnel Boat (Powered) Pulverizer, Pumps, Seeding Machine, Spray Cure Machine (Power driven) Subgrader, Tie Puller, Tie Tamper (Multi-head) Tractor-snaking and hauling, Tugger, Welding Machine (Gas or Diesel) Winch or Hydraulic Boom Truck (when hoisting and placing)	5.16	.35	.50		.04
Deck Hand, Farm Tractor, Fireman on Boiler, Mechanic's Helper, Oiler, Power Broom, Side Delivery Shoulder Spreader	5.01	.35	.50		.04

HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pick-up, and similar equipment, parts man and warehousemen)	$5.16	6%	3.5%			
Trucks over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors, and combination fuel and grease)	6.30	6%	3.5%			
Tri-axle trucks	6.39	6%	3.5%			
Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 ft. width (such as euclids: end or belly dump, single twin-engined or tandem: athey wagon: pay loader, tournawagons, and similar equipment when not self-loaded rated under forty-five tons)	6.39	6%	3.5%			
Heavy off-the-road equipment (rated at forty-five tons or over)	6.48	6%	3.5%			
Heavy duty trailer, such as low boy, hi-boy, pole trailer, A-Frames (when used for transporting materials), dumpsters, ross carriers, form trucks, dual-purpose trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), mechanical tailgate trucks, bucket self-loading trucks, farm tractors (when pulling and hauling), fork lift trucks (in storage areas and warehouses)	6.46	6%	3.5%			
Single-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	6.21	6%	3.5%			
Tandem-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	6.30	6%	3.5%			
Tri-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	6.39	6%	3.5%			
Ready-mixed Concrete Trucks with towed or built-in attachments (10¢ per hour additionsl to respecitve size truck						
Tar and Asphalt Distributing trucks (all liquid tank trucks, straight and semi, including water, sprinkler, oil trucks, etc.)	6.30	6%	3.5%			
Tar and Asphalt Trailer Trucks	6.39	6%	3.5%			
Trucks with Dolly or Trailer	6.26	6%	3.5%			
Bottom or Belly-Dump Trucks	6.48	6%	3.5%			

SUPERSEDEAS DECISION

STATE: Rhode Island
DECISION NO.: AQ-3023
COUNTIES: Bristol, Kent and Providence
DATE: Date of Publication
Supersedes Decision No. 2006, dated August 31, 1973, in 38 FR 23741
DESCRIPTION OF WORK: Building Construction, excluding single family homes and garden type apartments up to and including 4-stories), heavy and highway construction, and marine construction

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.80	.505	.45		.005	
Boilermakers	8.705	.50	10%		.01	
Bricklayers, cement masons and stone masons:						
Ashton, Berkeley, Central Falls, Cumberland, Lincoln, Lonsdale, Pawtucket and Valley Falls	8.70	.25	.25		.01	
Bricklayers, cement masons, plasterers, stonemasons, marble, tile and terrazzo workers:						
Woonsocket, N. Smithfield, Burrillville and Cumberland Hill	8.67	.25	.30		.01	
Bristol and Kent Counties; and Remainder of Providence County:						
Bricklayers and stone masons	8.57	.25	.35		.01	
Cement masons	7.95	.50	.35			
Marble, tile and terrazzo workers	8.55	.25	.35			
Plasterers	8.15	.50	.35			
Carpenters, soft floor layers, piledrivermen:						
Burrillville, No. Smithfield, Woonsocket townships	7.67	.25	.25			
Bristol & Kent Cos., & Remainder of Providence County:						
Carpenters, soft floor layers & Piledrivermen	8.46	.50	.35		.05	
Millwrights	8.71	.50	.35		.05	
Electricians	8.40	.38	11%+.25		.02	
Elevator constructors	8.49	.345	.23	2%+a+b	.015	
Elevator constructors' helpers	5.94	.345	.23	2%+a+b	.015	
Elevator constructors' helpers (Prob.)	4.245					
Glaziers	7.74	.42	.30	e	.01	
Ironworkers: Str., orn., reinf.	7.95	.50	.90+.50		.03	
Laborers:						
Laborers, Building:						
Laborers, carpenters tender, cement finisher tenders, mason tenders	6.80	.40	.40		.05	
Jackhammers, paving breaker, chain saw, pipelayers, mechanical grinder, all other pneumatic tools, barco type jumping tampers	7.05	.40	.40		.05	
Plasterers tenders	7.05	.40	.40		.05	
Powderman Blasters	7.55	.40	.40			
Laborers, Wrecking:						
Laborers, signalmen	6.80	.40	.40		.05	
Adzeman, burner, jackhammer	7.05	.40	.40		.05	

1-2-4-RI-BRI-KENT-PROV-1-E 2 of 3

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Lathers	$7.40	.45	.50		.01	
Lead burners	8.25	.30		c	.01	
Line Construction:						
Linemen	7.14	.20	1%	d		
Driver Groundman	5.58	.20	1%	d		
Groundman	5.07	.20	1%	d		
Equipment operator	6.31	.20	1%	d		
Marble, tile and terrazzo workers' helpers	7.23		.50			
Painters:						
Bristol, Kent and Providence Counties:						
Brush and Roller	7.45	.45	.45			
Structural steel & steam cleaning	7.70	.45	.45			
Spray and sand or water Blasting	8.45	.45	.45			
Air power Brush	7.95	.45	.45			
Plumbers	9.27	.50	.45		.05	
Roofers:						
Composition, waterproofers	7.85	.20	.25			
Slate, tile and precast concrete	8.05	.20	.25			
Helpers Class A	7.00	.20	.25			
Helpers, Class B	6.45	.20	.25			
Sheet Metal worker	8.73	.56	.55		.05	
Sprinkler fitters	9.07	.30	.50		.01	
Steamfitters, pipefitters	8.82	.35	.80		.03	
Truck Drivers: Building						
2-axle; dumps	6.75	.40	.50			
3-axle; trailers	6.83	.40	.50			
Low beds, trailers (24 tons and over); trailers (I-Beam), specialized earth moving equipment (Euclid type)	7.08	.40	.50			
Euclid type equipment over 35 ton capacity	7.33	.40	.50			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A. New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
A. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve provided employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

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d. Paid Holiday: A through F, Bunker Hill Day provided employee has been employed 10 working days prior to the Holiday and; and provided the employee worked the scheduled work days immediately preceding and following the holiday.

e. Paid Holiday: "D".

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HEAVY, HIGHWAY AND MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers, stone masons, catch basin, manhole builders	8.57	.25	.35		.01	
Carpenters, piledrivers	8.55	.35	.35		.01	
Cement masons - finishers	6.85	.35				
Electricians:						
Bristol, Kent and Providence Counties	8.40	.38	11%+.25		.02	
Ironworkers: Str., Orn., reinforcing	7.90	.50	.90+.50		.03	
Laborers:						
Laborers	6.80	.40	.40		.05	
Adzemen, asphalt rakers, barco type jumping tampers, chain saw operators concrete saw operators, demolition burners, fence and guard rail erectors 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	7.05	.40	.40		.05	
Air track op.	7.30	.40	.40		.05	
Blasterers and powdermen	7.55	.40	.40		.05	
Pavers, rammers, curb setters	7.30	.40	.40		.05	
Line Construction:						
Linemen	7.14	.20	1%	a		
Equipment Operator	6.31	.20	1%	a		
Groundman	5.07	.20	1%	a		
Driver groundman	5.58	.20	1%	a		
Painters:						
Bristol, Kent and Providence County:						
Brush & roller	7.45	.45	.45			
Structural steel, steam cleaning	7.70	.45	.45			
Spray sandblasting or water blasting	8.45	.45	.45			
Air power brush	7.95	.45	.45			
Plumbers	9.27	.50	.45		.05	
Waterproofers	7.85	.20	.25			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
A- Holidays: A through F, Bunker Hill Day provided employee has been employed 10 work days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday.

RI-1-PEO-1 O

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists pavers, and front-end loaders 3 yds. and over	$9.35	.40	.40		.05	
Economobile type equipment	9.10	.40	.40		.05	
Fork lift	8.85	.40	.40		.05	
Firemen and Oilers	7.45	.40	.40		.05	
Bulldozers, graders, spreaders, tractors, scrapers, rollers and front-end loaders less than 3 yds.	8.00	.40	.40		.05	
Pippin type backhoes	8.30	.40	.40		.05	
Maintenance Engineers	7.90	.40	.40		.05	
Well-point Installation	8.05	.40	.40		.05	
Gas or electric driven pumps, heater, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants	8.20	.40	.40		.05	

RI-1-PEO-2-4- O

BRIDGES, CAISSONS, DOCKS, MARINE, PIERS, SUB-BASEMENTS, SUBTERRANEAN, TUNNELS, & HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists, pavers and front end loaders 3 yds. and over	$10.05	.40	.40		.05	
Firemen and Oilers	8.05	.40	.40		.05	
Bulldozers, graders, spreaders, scrapers, rollers and front-end loaders less than 3 yds	8.65	.40	.40		.05	
Maintenance Engineers	8.35	.40	.40		.05	
Well-point Installation Crews	8.85	.40	.40		.05	
Gas or electric driven pumps, heaters, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants	8.65	.40	.40		.05	
Boat and Tug Operators	10.05	.40	.40		.05	
Apprentices (Deckhands)	8.15	.40	.40		.05	

BRIDGE (Incidental to Highway) and HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATOR	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Digging machines, cranes, piledrivers, lighters, locomotives, derricks, hoists, pavers and front-end loaders 3 to 4 yds. and economobile & ross carriers	$9.15	.40	.40			
Fork lifts	8.35	.40	.40			
Firemen	7.75	.40	.40			
Oilers and apprentices	6.90	.40	.40			
Bulldozers, spreaders, rollers and front-end loaders, less than 3 yds., tractors	7.65	.40	.40			
Scrapers and graders & dozer operators	7.775	.40	.40			
Pippin type backhoe operator	8.00	.40	.40			
Maintenance engineers	7.50	.40	.40			
Gas and electric driven heaters, pumps, concrete mixers, stone crushers, air compressors, light plants and welding machines and concrete pumps	7.775	.40	.40			
Test boring machine operators	6.625	.40	.40			
Well point installation crews	7.60	.40	.40			
Operators of truck cranes with booms of 130 to 150 feet	9.65	.40	.40			
over 150 feet	9.90	.40	.40			
Operators of cat cranes with booms of 150 to 180 feet	9.65	.40	.40			
over 180 feet	9.90	.40	.40			

HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Pick-up trucks, Station Wagons and Panel Trucks	$6.26	.40	.50	a+b		
Two Axle, Helpers on Low Beds	6.41	.40	.50	a+b		
Three Axle Equipment and ready mix equipment	6.46	.40	.50	a+b		
Four & Five Axle Equipment	6.56	.40	.50	a+b		
Low Bed Trailers, Special Earth moving equipment under 35 tons, Mechanics, Paving Restoration Vehicle & Vac Haul	6.66	.40	.50	a+b		
Special Earth Moving Equipment over 35 tons	6.91	.40	.50	a+b		
Trailers when used on a double hook-up (pulling 2 trailers)	7.16	.40	.50	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; Washington's Birthday, Columbus Day, Veteran's Day; V-J Day providing employee has worked at least one day in the calendar week in which the holiday falls.

b. Employee who has been on payroll 1 year or more but less than 5 years and has worked 150 days during the last year of employment shall receive: 1 week's vacation; 5 years or more - 2 weeks vacation.

SUPERSEDEAS DECISION

STATE: Rhode Island
DECISION NO.: AQ-3024
COUNTY: Newport
DATE: Date of Publication
Supersedes Decision No. AQ-2007, dated August 24, 1973, in 38-FR-22869
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4-stories), heavy and highway construction and marine construction.

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.80	.505	.45		.005	
Boilermakers	8.705	.50	10%		.01	
Bricklayers, stonemasons	8.57	.25	.35		.01	
Carpenters:						
Little Compton, Tiverton:						
Carpenters & soft floor layers	7.40	.30	.30			
Millwrights	8.20	.30	.50		.02	
Remainder of County:						
Carpenters and soft floor layers	8.15	.35	.35		.02	
Millwrights and Piledrivermen	8.75	.35	.35		.02	
Cement masons	7.95	.50	.35			
Electricians:						
Little Compton, Tiverton	8.10	.32	1%+.25	.32	4%	
Remainder of County	8.40	.38	1%+.25		.02	
Elevator constructors	8.49	.345	.23	2%a+b	.015	
Elevator constructors' helpers	5.94	.345	.23	2%a+b	.015	
Elevator constructors' helpers (Prob.)	4.245					
Glaziers	8.23	.42	.30	e	.01	
Ironworkers:						
Str., orn., & reinf.	7.95	.50	.90+.50		.03	
Laborers:						
Laborers, Building:						
Laborers, carpenters tender, cement finisher tender, mason tender	6.80	.40	.40		.05	
Jackhammers, paving breaker, chain saw Pipelayers, mechanical grinder, all other pneumatic tools, barco type jumping tampers	7.05	.40	.40		.05	
Plasterer tenders	7.05	.40	.40		.05	
Powdermen Blasters	7.55	.40	.40		.05	
Laborers, Wrecking:						
Laborers, signalmen	6.80	.40	.40		.05	
Adzman, burner, jackhammer	7.05	.40	.40		.05	
Lathers	5.75	.25	.20			
Line Construction						
Linemen	7.14	.20	1%	d		
Groundmen	5.07	.20	1%	d		
Equipment operator	6.31	.20	1%	d		
Driver groundman	5.58	.20	1%	d		
Marble setters, terrazzo worker and tile setters	8.55	.25	.35			
Marble, tile and terrazzo helpers	7.25		.50			
Lead burners	8.25	.30		c	.01	

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Painters:						
Little Compton & Tiverton Twps.:						
Brush	5.35	.30	.20	.20		
Structural steel & Str. Steel spray	7.70	.30	.20	.20		
Spray (other than steel)	6.35	.30	.20	.20		
Remainder of County:						
Brush & roller	7.45	.45	.45			
Structural steel & steam cleaning	7.70	.45	.45			
Spray & sand or water blasting	8.45	.45	.45			
Air power brush	7.95	.45	.45			
Plasterers	8.15	.50	.35			
Plumbers	9.27	.50	.45		.05	
Roofers:						
Composition, waterproofers	7.85	.20	.25			
Slate, tile, precast concrete	8.05	.20	.25			
Helpers, Class "A"	7.00	.20	.25			
Helpers, Class "B"	6.45	.20	.25			
Sheet metal workers	8.73	.56	.55		.05	
Sprinkler fitters	9.07	.30	.50		.01	
Steamfitters	8.82	.35	.80		.03	
Truck Drivers, Building:						
Dumps & 2-axle equipment	6.75	.40	.50			
Trailers & 3-axle equipment	6.83	.40	.50			
Low bed trailers (24 tons & over, I-Beam trailers, Special earth moving equipment (Euclid type)	7.08	.40	.50			
Euclid type equipment over 35 ton capacity	7.33	.40	.50			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; E-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F; Bunker Hill Day provided employee has been employed 10 working days prior to the holiday and provided the employee works the scheduled work day immediately preceding and following the holiday.

e. Paid Holiday: "D".

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HEAVY, HIGHWAY & MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers, stone masons, catch basin, manhole builders	$8.57	.25	.35		.01	
Carpenters, dock builders, piledrivers:						
Little Compton, Tiverton	8.85	.30	.30			
Remainder of County	8.75	.25	.25		.01	
Cement masons	6.85	.35				
Electricians:						
Little Compton, Tiverton	8.10	.32	1%+.25	.32	4%	
Remainder of County	8.40	.38	1%+.25		.02	
Ironworkers:						
Structural, ornamental, reinforcing	7.95	.50	.90+.50		.03	
Laborers:						
Laborers	6.80	.40	.40		.05	
Adzemen, asphalt rakers, barcotype 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 stonewall builders, setters of metal forms for roadways, stumper operators, tree toppers, tree trimmers, wagon drill operators, wood chipper operators	7.05	.40	.40		.05	
Air track drill op.	7.30	.40	.40		.05	
Blasters & powdermen	7.55	.40	.40		.05	
Pavers, rammers, curb setters	7.30	.40	.40		.05	
Line Construction:						
Linemen	7.14	.20	1%	a		
Groundman	5.07	.20	1%	a		
Equipment operator	6.31	.20	1%	a		
Driver groundman	5.58	.20	1%	a		
Painters:						
Little Compton & Tiverton Twps:						
Brush	5.35	.30	.20	.20		
Structural steel	7.70	.30	.20	.20		
Structural steel spray	7.70	.30	.20	.20		
Spray (other than steel)	6.35	.30	.20	.20		
Remainder of County:						
Brush & roller	7.45	.45	.45			
Spray & sand or water blasting	8.45	.45	.45			
Structural Steel & steam cleaning	7.70	.45	.45			
Air power brush	7.95	.45	.45			

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HEAVY, HIGHWAY & MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Plumbers	$9.27	.50	.45		.05	
Waterproofers	7.85	.20	.25			

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, Bunker Hill Day provided the employee has been employed 10 working days prior to the holiday and provided the employee works the scheduled work day immediately preceding and following the holiday.

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists pavers, and front-end loaders 3 yds. and over	$9.35	.40	.40		.05	
Economobile type equipment	9.10	.40	.40		.05	
Fork lift	8.85	.40	.40		.05	
Firemen and Oilers	7.45	.40	.40		.05	
Bulldozers, graders, spreaders, tractors, scrapers, rollers and front-end loaders less than 3 yds.	8.00	.40	.40		.05	
Pippin type backhoes	8.30	.40	.40		.05	
Maintenance Engineers	7.90	.40	.40		.05	
Well-point Installation	8.05	.40	.40		.05	
Gas or electric driven pumps, heater, concrete mixers, stone crushers, air compressors, welding machines and generaters for light plants	8.20	.40	.40		.05	

BRIDGES, CAISSONS, DOCKS, MARINE, PIERS, SUBBASEMENTS, SUBTERRANEAN, TUNNELS, & HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS				
		H & W	Pensions	Vacation	App. Tr.	Other
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists, pavers and front end loaders 3 yds. and over	$10.05	.40	.40		.05	
Firemen and Oilers	8.05	.40	.40		.05	
Bulldozers, graders, spreaders, scrapers, rollers and front-end loaders less than 3 yds	8.65	.40	.40		.05	
Maintenance Engineers	8.35	.40	.40		.05	
Well-point Installation Crews	8.85	.40	.40		.05	
Gas or electric driven pumps, heaters, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants	8.65	.40	.40		.05	
Boat and Tug Operators	10.05	.40	.40		.05	
Apprentices (Deckhands)	8.15	.40	.40		.05	

BRIDGE (Incidental to Highway) and HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATOR	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Digging machines, cranes, piledrivers, lighters, locomotives, derricks, hoists, pavers and front-end loaders 3 to 4 yds. and economobile & ross carriers	$9.15	.40	.40			
Fork lifts	8.35	.40	.40			
Firemen	7.75	.40	.40			
Oilers and apprentices	6.90	.40	.40			
Bulldozers, spreaders, rollers and front-end loaders, less than 3 yds., tractors	7.65	.40	.40			
Scrapers and graders & dozer operators	7.775	.40	.40			
Pippin type backhoe operator	8.00	.40	.40			
Maintenance engineers	7.50	.40	.40			
Gas and electric driven heaters, pumps, concrete mixers, stone crushers, air compressors, light plants and welding machines and concrete pumps	7.775	.40	.40			
Test boring machine operators	6.625	.40	.40			
Well point installation crews	7.60	.40	.40			
Operators of truck cranes with booms of 130 to 150 feet	9.65	.40	.40			
over 150 feet	9.90	.40	.40			
Operators of cat cranes with booms of 150 to 180 feet	9.65	.40	.40			
over 180 feet	9.90	.40	.40			

HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Pick-up trucks, Station Wagons and Panel Trucks	$6.26	.40	.50	a+b		
Two Axle, Helpers on Low Beds	6.41	.40	.50	a+b		
Three Axle Equipment and ready mix equipment	6.46	.40	.50	a+b		
Four & Five Axle Equipment	6.56	.40	.50	a+b		
Low Bed Trailers, Special Earth moving equipment under 35 tons, Mechanics, Paving Restoration Vehicle & Vac Haul	6.66	.40	.50	a+b		
Special Earth Moving Equipment over 35 tons	6.91	.40	.50	a+b		
Trailers when used on a double hook-up (pulling 2 trailers)	7.16	.40	.50	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; Washington's Birthday, Columbus Day, Veteran's Day; V-J Day providing employee has worked at least one day in the calendar week in which the holiday falls.

b. Employee who has been on payroll for 1 year or more but less than 5 years and has worked 150 days during the last year of employment shall receive: 1 week's vacation; 5 years or more - 2 weeks vacation.

SUPERSEDEAS DECISION

STATE: Rhode Island
DECISION NO.: AQ-3025
COUNTY: Washington
DATE: Date of Publication
Supersedes Decision No. AQ-2008, dated September 6, 1973, in 38 FR 24545
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction, and marine construction.

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.80	.505	.45		.005	
Boilermakers	8.705	.50	10%		.01	
Bricklayers and stone masons:						
Westerly, Hopkington, So. Kingstown, Charlestown, Richmond, Wakefield, Peace Dale, Kingston	8.02	.25	.35			
Exeter, Johnson, No. Kingstown, Narragansett (Including the Pier of Point Judith)	8.57	.25	.35		.01	
Carpenters and soft floor layers:						
North Kingston:						
Carpenters, soft floor layers & pile-drivermen	8.46	.50	.35		.05	
Millwrights	8.71	.50	.35		.05	
Remainder of County:						
Carpenters, soft floor layers & pile-drivermen	8.46	.50	.35			
Millwrights	8.71	.50	.35			
Cement masons:						
Westerly, Hopkington, So. Kingstown, Charlestown, Richmond, Wakefield, Peace Dale, Kingston	6.075	.15	.20			
Exeter, Narragansett, No. Kingstown Gould	7.95	.50	.35			
Electricians:						
Westerly Township	8.80	.75	1%+.40		½%	
Remainder of County	8.40	.38	1%+.25		.02	
Elevator constructors	8.49	.345	.23	2%+a	.015	
Elevator constructors' helpers	5.94	.345	.23	2%+a	.015	
Elevator Constructors' helpers (prob)	4.245					
Glaziers	8.23	.42	.30	d	.01	
Ironworkers: structural, ornamental, & reinforcing	7.95	.50	.90+.50		.03	
Laborers, Building:						
Laborers, carpenters' tenders, cement finisher tenders, mason tenders	6.80	.40	.40		.05	
Jackhammer, paving breaker, chain saw, pipelayers, mechanical grinder, all other pneumatic tools, barco type jumping tampers	7.05	.40	.40		.05	
Plasterers' tenders	7.05	.40	.40		.05	
Powdermen blasters	7.55	.40	.40		.05	
Laborers, Wrecking:						
Laborers, signalmen	6.80	.40	.40		.05	
Adzman, burner, jackhammer	7.05	.40	.40		.05	

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Lathers	$7.40	.45	.50		.01	
Lead Burners	8.25	.30		c	.01	
Line Construction:						
Linemen	7.14	.20	1%	d		
Driver Groundman	5.58	.20	1%	d		
Groundman	5.07	.20	1%	d		
Equipment Operator	6.31	.20	1%	d		
Marble, Tile and Terrazzo workers: Exeter, N. Kingstown, Narragansett, (Including the Pier of Point Judith)	7.50	.25	.35			
Marble, Tile and Terrazzo helpers	7.23		.50			
Painters:						
Brush & Roller	7.43	.45	.45			
Structural steel & steam cleaning	7.70	.45	.45			
Spray and sand or water blasting	8.45	.45	.45			
Air power brush	7.95	.45	.45			
Plasterers, Exeter, Narragansett, N. Kingston	8.15	.50	.35			
Plasterers (Westerly, Hopkington, S. Kingston, Charlestown, Richmond, Wakefield and Peace Dale)	8.02	.25	.35			
Plumbers	9.27	.50	.45		.05	
Roofers:						
Composition, waterproofers	7.85	.20	.25			
Slate, tile, precast concrete	8.05	.20	.25			
Helpers, Class "A"	7.00	.20	.25			
Helpers, Class "B"	6.45	.20	.25			
Sheet Metal workers	8.73	.56	.55		.05	
Sprinkler fitters	9.07	.30	.50		.01	
Steamfitters	8.82	.35	.80		.03	
Truck Drivers: Building						
Two-axle; dumps	6.75	.40	.50			
Three-axle; trailers	6.83	.40	.50			
Low-bed trailers (24 tons & over), Trailers (I-beam), specialized earth moving equipment (Euclid type)	7.08	.40	.50			
Euclid type equipment over 35 ton capacity	7.33	.40	.50			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A. New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit

FOOTNOTES (Cont'd):

b. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

c. Holidays: A through F; Bunker Hill Day, provided employee has been employed 10 working days prior to the holiday and provided employee works the scheduled work day immediately preceding and following the holiday.

d. Paid Holiday: "D".

HEAVY, HIGHWAY AND MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Bricklayers, stone masons, catch basin, manhole builders	$8.57	.25	.35		.01
Carpenters, piledrivermen, N. Kingstown	8.55	.35	.35		.01
Cement masons - finishers	6.85	.35			
Electricians:					
Westerly	8.80	.75	1%+40		3%
Remainder of County	8.40	.38	1%+.25		.02
Ironworkers, struc., orn., reinf.	7.95	.50	.90+.50		.03
Laborers:					
Laborers	6.80	.40	.40	.50	.05
Airmen, asphalt rakers, barcotype 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 stonewall builders, setters of metal forms for roadways, stumper operators, tree-toppers, tree trimmers wagon drill operators, wood chipper operators	7.05	.40	.40		.05
Air track operator	7.30	.40	.40		.05
Blasterers and powdermen	7.55	.40	.40		.05
Pavers, rammers and curb setters	7.30	.40	.40		.05
Line Construction:					
Linemen	7.14	.20	1%		
Equipment operator	6.31	.20	1%		
Groundman	5.07	.20	1%		
Driver groundman	5.58	.20	1%		
Painters:					
Brush & roller	7.45	.45	.45		
Structural steel & steam cleaning	7.70	.45	.45		
Spray & sand or water blasting	8.45	.45	.45		
Air Power Brush	7.95	.45	.45		
Plumbers	9.27	.50	.45		.05
Waterproofers	7.85	.20	.25		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Bunker Hill Day provided employee has been employed 10 working days prior to the holiday and provided the employee works the scheduled work day immediately preceding and following the holiday.

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists pavers, and front-end loaders 3 yds. and over	$9.35	.40	.40		.05	
Economobile type equipment	9.10	.40	.40		.05	
Fork lift	8.85	.40	.40		.05	
Firemen and Oilers	7.45	.40	.40		.05	
Bulldozers, graders, spreaders, tractors, scrapers, rollers and front-end loaders less than 3 yds.	8.00	.40	.40		.05	
Pippin type backhoes	8.30	.40	.40		.05	
Maintenance Engineers	7.90	.40	.40		.05	
Well-point Installation	8.05	.40	.40		.05	
Gas or electric driven pumps, heater, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants	8.20	.40	.40		.05	

BRIDGE (Incidental to Highway) and HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATOR	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Digging machines, cranes, piledrivers, lighters, locomotives, derricks, hoists, pavers and front-end loaders 3 to 4 yds. and economobile & ross carriers	$9.15	.40	.40			
Fork lifts	8.35	.40	.40			
Firemen	7.75	.40	.40			
Oilers and apprentices	6.90	.40	.40			
Bulldozers, spreaders, rollers and front-end loaders, less than 3 yds., tractors	7.65	.40	.40			
Scrapers and graders & dozer operators	7.775	.40	.40			
Pippin type backhoe operator	8.00	.40	.40			
Maintenance engineers	7.50	.40	.40			
Gas and electric driven heaters, pumps, concrete mixers, stone crushers, air compressors, light plants and welding machines and concrete pumps	7.775	.40	.40			
Test boring machine operators	6.625	.40	.40			
Well point installation crews	7.60	.40	.40			
Operators of truck cranes with booms of 130 to 150 feet	9.65	.40	.40			
over 150 feet	9.90	.40	.40			
Operators of cat cranes with booms of 150 to 180 feet	9.65	.40	.40			
over 180 feet	9.90	.40	.40			

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BRIDGES, CAISSONS, DOCKS, MARINE, PIERS, SUBBASEMENTS, SUBTERRANEAN, TUNNELS, & HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists, pavers and front end loaders 3 yds. and over	$10.05	.40	.40		.05	
Firemen and Oilers	8.05	.40	.40		.05	
Bulldozers, graders, spreaders, scrapers, rollers and front-end loaders less than 3 yds	8.65	.40	.40		.05	
Maintenance Engineers	8.35	.40	.40		.05	
Well-point Installation Crews	8.85	.40	.40		.05	
Gas or electric driven pumps, heaters, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants	8.65	.40	.40		.05	
Boat and Tug Operators	10.05	.40	.40		.05	
Apprentices (Deckhands)	8.15	.40	.40		.05	

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HEAVY & HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Pick-up trucks, Station Wagons and Panel Trucks	$6.26	.40	.50	a+b		
Two Axle, Helpers on Low Beds	6.41	.40	.50	a+b		
Three Axle Equipment and ready mix equipment	6.46	.40	.50	a+b		
Four & Five Axle Equipment	6.56	.40	.50	a+b		
Low Bed Trailers, Special Earth moving equipment under 35 tons, Mechanics, Paving Restoration Vehicle & Vac Haul	6.66	.40	.50	a+b		
Special Earth Moving Equipment over 35 tons	6.91	.40	.50	a+b		
Trailers when used on a double book-up (pulling 2 trailers)	7.16	.40	.50	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; Washington's Birthday, Columbus Day, Veteran's Day; V-J Day providing employee has worked at least one day in the calendar week in which the holiday falls.

b. Employee who has been on payroll for 1 year or more but less than 5 years and has worked 150 days during the last year of employment shall receive: 1 week's vacation; 5 years or more - 2 weeks vacation.

SUPERSEDEAS DECISION

STATE: South Dakota

COUNTIES: Beadle, Bennett, Bon Homme, Brown, Brule, Buffalo, Butte, Charles Mix, Codington, Corson, Custer, Dewey, Fall River, Grant, Gregory, Haakon, Harding, Hughes, Jackson, Jones, Lawrence, Lyman, Mellette, Perkins, Shannon, Stanley, Sully, Todd, Tripp, Washabaugh, Yankton and Ziebach

DECISION NUMBER: AQ-1051

DATE: Date of Publication

Supersedes Decision No. AQ-1045 dated October 12, 1973, in 38 FR 28539

DESCRIPTION OF WORK: Heavy and Highway Construction.

1-South Dakota-2-3-d (1-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Concrete Finisher	$4.56					
Form Builder	4.56					
Form Setter	4.56					
Painter	3.76					
LABORERS:						
Air tool operator	3.36					
Common laborer	3.36					
Landscape workers	3.36					
Form builder helpers (bridge and culvert)	3.76					
Manhole builder	4.30					
Piledriver (leadsman)	4.20					
Pipelayer (other than culvert)	4.20					
Powderman (blaster)	5.00					
POWER EQUIPMENT OPERATORS:						
Asphalt distributor	4.50					
Asphalt distributor helper	3.76					
Asphalt paving machine	4.60					
Asphalt paving machine helper	3.36					
Asphalt plant helper	3.36					
Asphalt plant, stationary and traveling	4.60					
Auger operator (truck type)	3.76					
Automatic fine grader operator	4.70					
Beginner operator (1 year or less experience as Power Equipment Op.)	3.90					
Broom, self-propelled	3.76					
Bulldozer, 80 h.p. or less	4.10					
Bulldozer, over 80 h.p.	4.60					
Bullfloat machine	4.40					
Concrete batch plant	4.60					
Concrete mixer	3.90					
Concrete paver	5.00					
Concrete paving cure machine	4.00					
Concrete paving finishing machine	4.70					
Concrete paving form grader	4.70					
Concrete paving joint machine	4.50					
Concrete paving joint sealer	4.00					
Concrete paving saw	4.40					
Concrete paving spreader	4.70					
Concrete paving subgrader	4.60					

1-South Dakota 2-3 d (2-2)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS (cont'd):						
Conveyor	3.36					
Cranes, Derricks, Draglines, Piledrivers, Backhoes and Shovels, 1¼ cu. yds. or less	4.60					
Cranes, Derricks, Draglines, Piledrivers, Backhoes and Shovels, over 1¼ cu. yds.	5.00					
Crusher (incl. those with integral screening plant)	$4.60					
Curb machine	4.00					
Fireman (boiler and retort)	3.80					
Front End Loader, 1¼ cu. yds. or less	3.90					
Front End Loader, 1¼ cu. yds. to 3¼ cu. yds.	4.40					
Front End Loader, over 3¼ cu. yds.	4.60					
Mechanic, heavy duty	4.90					
Mechanic, helper	3.90					
Mechanic, maintenance	4.40					
Motor grader, (finish)	5.00					
Motor grader, (rough)	4.50					
Oiler and greaser	4.40					
Roller, self-propelled (hot mix)	4.10					
Roller, self-propelled (other)	3.76					
Roller, sheepsfoot or 50 ton pneumatic	4.10					
Scrapers	5.20					
Spreader (materials)	4.40					
Stationary plant	4.00					
Tractor (crawler or pneumatic)	4.00					
Tractor, farm type w/attachments (including loader)	3.36					
Tractor - push	4.80					
Traveling plant (stabilization)	4.60					
Traveling plant, helper	3.36					
Trenching machine	4.40					
Wagon drill (including airtrac-trac-drill, etc.)	4.40					
TRUCK DRIVERS:						
Euclid or dumptor	3.72					
Truck crane	3.62					
Truck driver, single axle	3.36					
Truck driver, tanden or semitrailer	3.52					
WELDER:						
Welder, certified	4.70					
Welder, general	4.40					

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: AQ-38

DATE: Date of Publication

Supersedes Decision No. AP-725, dated April 27, 1973, in 38 FR 10597.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.25	.30	.25		.02	
BOILERMAKERS	7.00	.30	.76		.02	
BRICKLAYERS & STONEMASONS	7.25					
CARPENTERS:						
Carpenters	7.00					
Millwrights	7.25					
CEMENT MASONS:						
Cement masons	6.05					
Machine operators	6.30					
ELECTRICIANS:						
Electricians	6.90	.25	1%		1/2%	
Cable splicers	7.59	.25	1%		1/2%	
ELEVATOR CONSTRUCTORS	4.06	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	4.85					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	6.85	.40	.50		.05	
LABORERS:						
Unskilled:						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	3.00					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.50					
Air tool operator (jackhammer, vibrator):						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	3.15					

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (CONT'D):						
Air tool operator (jackhammer, vibrator) (Cont'd):						
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	$3.65					
Mason tenders:						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					
Mortar mixers:						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					
Pipelayer (non-metallic):						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					
Plasterers' tenders:						
Armstrong, Carson, Castro, Childress, Collingsworth, Deaf Smith, Donley, Oldham, Potter, Randall and Swisher Counties	3.15					
Dallam, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, Sherman and Wheeler Counties	3.65					
LATHERS	5.275					
MARBLE MASONS (EXTERIOR)	5.50					
MARBLE MASONS (INTERIOR)	4.60					

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments * H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Brush & roller; paperhangers; perfa-tapers	$5.50		.05	.05		
Structural steel painters; swinging stage or chair below 50 ft.	5.625		.05	.05		
Spray painters & sandblasters	6.15		.05	.05		
Perfa-tape, machine operator	5.75		.05	.05		
PLASTERERS	6.30				.01	
PLUMBERS & PIPEFITTERS:						
ZONE 1 - shall extend a distance of 25 road miles beyond the police station in Amarillo & Borger	7.03	.25	.30	.35		
ZONE 2 - shall extend a distance of 25 road miles beyond the outer perimeter of Zone 1	7.28	.25	.30	.35		
ZONE 3 - shall apply to all areas not within Zones 1 or 2	7.53	.25	.30	.35		
SHEET METAL WORKERS	7.82		.10		.03	
SPRINKLER FITTERS	8.50	.40	.60		.07	
TERRAZZO WORKERS	4.60					
TILE SETTERS	4.50					
TRUCK DRIVERS:						
1/2 ton to 3 tons	2.88					
3 to 5 tons	3.13					
5 tons and over	3.38					
Ready mix concrete to 3 yds.	2.88					
Ready mix concrete over 3 yds.	3.13					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments * H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT:						
Utility operator	$6.15	.30	.35		.05	
Blade grader, self-propelled; Clam shells; Cable ways; Cranes, power operated, all types; Derricks, power operated, all types; Drag-lines; Elevating grader, self-propelled; Hoist, 2 drums or more; Locomotive; Mixmobiles; Paving mixers, all types; Pile Drivers; Scrapers, Bulldozers, Side boom; Cherry pickers; Shovels; Heavy duty mechanic; All welders; All tractors with power attachments (crawler type); Ditching machine; Farm type tractor (loader, 1 yd. & over) with backhoe	6.01	.30	.35		.05	
All other equipment of similar nature coming within the heavy class, when power operated.						
LIGHT EQUIPMENT:						
Farm type tractor (loader, under 1 yd.) with backhoe; Go-devil; Mixers, 14 cu. ft. or over; Rollers, over 10 tons; 2 pumps operated by one man; Air compressor and one tugger	5.83	.30	.35		.05	
Winch trucks	5.73	.30	.35		.05	
2 air compressors; 1 air compressor and 1 pump; Front end scoopmobile loader & payloader	5.70	.30	.35		.05	
Blade grader, towed; Elevators, building; Form lifts; Hoists, single drum or 1 line hoisting (1 tugger); Mixers less than 14 cu. ft.; Rollers; Screening plants; Welding machines (gas or diesel) min. 2, max. 7; Crushing plants; Tractors wheel type except when hauling material; Truck crane driver and/or oiler front end crane	5.59	.30	.35		.05	
Pulsometer; 1 pump; 1 air compressor; mechanic helper; Welders helpers; fireman	5.41	.30	.35		.05	
Greasers	5.22	.30	.35		.05	
Oilers	5.12	.30	.35		.05	
All other equipment of similar nature coming within the light class, when power operated						

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INCIDENTAL PAVING & UTILITIES	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					

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19 - Texas - 3 1 (2 - 2)

INCIDENTAL PAVING & UTILITIES	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					

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties:						
Lineman	$6.90	.25	1%			
Groundman, more than 1 year experience	4.63	.25	1%			
Groundman, less than 1 year experience	4.04	.25	1%			
Operator-hole digger, line truck	5.38	.25	1%			
Flat bed truck driver	4.04	.25	1%			
Childress County:						
Lineman	7.90		1%		1/2%	
Cable splicer	8.69		1%		1/2%	
Lineman operator	7.90		1%		1/2%	
Groundman, 1st 6 months	4.74		1%		1/2%	
Groundman, 2nd 6 months	5.14		1%		1/2%	
Groundman, 1 year & over	5.53		1%		1/2%	

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-40
COUNTIES: Jefferson & Orange
DATE: Date of Publication
Supersedes Decision No. AP-739, dated July 6, 1973, in 38 FR 18167.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

(1 - 3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS (JEFFERSON COUNTY)	$ 7.02	.50	.495		.03	
ASBESTOS WORKERS (ORANGE COUNTY)	7.685	.325	.30		.04	
BOILERMAKERS	7.00	.30	.76		.02	
BRICKLAYERS; STONEMASONS	8.11	.275	.30		.04	
CARPENTERS:						
Carpenters	7.00		.30			
Millwrights	7.73					
Piledrivermen	7.105		.30			
CEMENT MASONS	7.1.					
ELECTRICIANS	7.63	.28	1% +.285		1/2%	
ELEVATOR CONSTRUCTORS	4.53	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	7.15	.40	.50		.05	
LABORERS:						
Common laborer; asphalt ironer and raker	4.81	.28	.20		.02	
Carpenter tender	4.86	.28	.20		.02	
Cement masons tender; air tool operator (jackhammer - vibrator)	4.91	.28	.20		.02	
Mortar mixers, hod carriers & mason tender; plaster and lather tender; pipelayers, non-metallic pipe, including handling and laying pumpcrete pipe	5.01	.28	.20		.02	
Sandblaster, exclusive of preparation work for painters; dumper, spotter and wagon drill; powderman-blaster; well driller	4.81	.28	.20		.02	
Machine man and nozzleman, for gunniting 1-1/2" and over	5.185	.28	.20		.02	
LATHERS	7.325	.20			.01	
PAINTERS:						
Southern half of Jefferson County and all of Orange County:						
Brush, wood and wall paperhanger and glazier	6.65					
Brush, steel	6.70					
Spray	7.17					

(2 - 3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (CONT'D):						
Southern half of Jefferson County and all of Orange County (Cont'd):						
Sandblaster, power cleaning	$ 6.91					
Brush, hot paint or creosote	6.91					
Spray, hot paint or creosote	7.44					
All time spent rigging	6.91					
Twenty-five cents (25c) per hour premium on all work from stage, chair, window jack or ledge in all classifications.						
Northern half of Jefferson County:						
Brush and glazier	6.675					
Canvas and paperhangers	6.925					
Spray	7.10					
PIPEFITTERS	7.33	.30	.52		.06	
PLASTERERS	7.03	.27	.30		.02	
PLUMBERS	8.30				.03	
ROOFERS:						
Roofers	6.29	.20	.10	.15	.03	
Kettlemen	5.35	.20	.10	.15	.03	
Helpers	4.13	.20	.10	.15	.03	
SHEET METAL WORKERS	7.57		.15		.04	
SPRINKLER FITTERS	8.50	.40	.60		.07	
TILE SETTERS	7.25	.275	.30		.04	
TRUCK DRIVERS:						
Under 1-1/2 ton and wash, grease, tireman, fuel pump operators when used on construction	4.40					
1-1/2 tons thru 2-1/2 tons, dump truck less than 7 yds., town driver	4.69					
Over 2-1/2 tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards, and when used to transport material), floats, hydraulic tail gate lifts	4.85					
Euclids (not self-loading)	4.95					
Warehousemen - material checker	4.965					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT OPERATORS Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler, Derrick-Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back-Hoe; Shovel; Crane-Power operated, all types; Elevating Grader, Self-propelled; Hoist-motor driven, two drums or more; Mix Mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Pump-crete Machine; Drill Operator - Water Well; DW-10 Euclid; Tourna-pulls; Asphalt Plants; Crushing Machines and Batch-Plants; Scoop-mobiles; Fingerlift Operator; Well Points	7.535		.25			
LIGHT EQUIPMENT OPERATORS Air Compressor; Blade Grade - Towed; Flex-Plane; Form Grader; Mixer - less than 14 cu. ft.; Pump; Pulsometer; Truck Crane Driver; Gasoline or Diesel Driven Welding machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Con-veyors - power operated	6.65		.25			
FIREMAN	6.16		.25			
OILER	5.99		.25			

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-41
COUNTIES: Jefferson & Orange
DATE: Date of Publication
Supersedes Decision No. AP-738, dated July 6, 1973, in 38 FR 18164.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

(1 - 3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS (JEFFERSON COUNTY)	$ 7.02	.50	.495		.03	
ASBESTOS WORKERS (ORANGE COUNTY)	7.685	.325	.30		.04	
BOILERMAKERS	7.00	.30	.76		.02	
BRICKLAYERS; STONEMASONS	8.11	.275	.30		.04	
CARPENTERS:						
Carpenters	7.385		.30		.05	
Millwrights	7.73					
Piledrivermen	7.105		.30			
CEMENT MASONS	7.12					
ELECTRICIANS	7.63	.28	1% +.285		1/2%	
ELEVATOR CONSTRUCTORS	4.53	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
IRONWORKERS:						
Structural; Ornamental; Reinforcing	7.15	.40	.50		.05	
LABORERS:						
Common laborer; asphalt ironer and raker	4.81	.28	.20		.02	
Carpenter tender	4.86	.28	.20		.02	
Cement masons tender; air tool operator (jackhammer - vibrator)	4.91	.28	.20		.02	
Mortar mixers, hod carriers & mason tender; plaster and lather tender; pipelayers, non-metallic pipe, including handling and laying pumpcrete pipe	5.01	.28	.20		.02	
Sandblaster, exclusive of preparation work for painters; dumper, spotter and wagon drill; powderman-blaster; well driller	4.81	.28	.20		.02	
Machine man and nozzleman for gunniting 1 - 1/2" and over	5.185	.28	.20		.02	
LATHERS	7.325	.20			.01	
PAINTERS:						
Southern half of Jefferson County and all of Orange County:						
Brush, wood and wall paperhanger and glazier	6.80					
Brush, steel	6.85					
Spray	7.30					

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(2 - 3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (CONT'D):						
Southern half of Jefferson County and all of Orange County (Cont'd):						
Sandblaster, power cleaning	$7.125					
Brush, hot paint or creosote	7.125					
Spray, hot paint or creosote	7.55					
All time spent rigging	7.125					
Twenty-five cents (25¢) per hour premium on all work from stage, chair, window jack or ledge in all classifications.						
Northern half of Jefferson County:						
Brush and glaziers	6.925					
Canvas and paperhangers	7.175					
Brush, steel	7.10					
Spray	7.35					
PIPEFITTERS	7.33	.30	.52		.06	
PLASTERERS	7.03	.27	.30		.02	
PLUMBERS	8.30				.03	
ROOFERS:						
Roofers	6.29	.20	.10	.15	.03	
Kettlemen	5.35	.20	.10	.15	.03	
Helpers	4.13	.20	.10	.15	.03	
SHEET METAL WORKERS	7.57		.15		.04	
SPRINKLER FITTERS	8.50	.40	.60		.07	
TILE SETTERS	7.25	.275	.30		.04	
TRUCK DRIVERS:						
Under 1-1/2 ton and wash, grease, firemen, fuel pump operators when used on construction	4.40					
1-1/2 tons thru 2-1/2 tons, dump truck less than 7 yds., town driver	4.69					
Over 2-1/2 tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards, and when used to transport material), floats, hydraulic tail gate lifts	4.85					
Euclids (not self-loading)	4.95					
Warehousemen - material checker	4.965					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Linemen	$ 7.915	.28	1%		1/2%	
Groundman	73%JR	.28	1%		1/2%	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
HEAVY EQUIPMENT OPERATORS Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler, Derrick-Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back-Hoe; Shovel; Crane-Power operated, all types; Elevating Grader, Self-Propelled; Hoist-motor driven, two drums or more; Mix Mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Pump-crete Machine; Drill Operator - Water Well; DW-10 Euclid; Tourna-pulls; Asphalt Plants; Crushing Machines and Batch-plants; Scoop-mobiles; Fingerlift Operator; Well Points	$ 7.535		.25			
LIGHT EQUIPMENT OPERATORS Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer - less than 14 cu. ft.; Pump; Pulso-meter; Truck Crane Driver; Gasoline or Diesel Driven Welding machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated	6.65		.25			
FIREMAN	6.16		.25			
OILER	5.99		.25			

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