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highlights

PART I:

OUTER CONTINENTAL SHELF
Interior/GS announces availability of oil for sale to small refiners 53048

INCOME TAX
Treasury/IRS proposes extension of period for replacing principal residence for nonrecognition of gain; comments by 12-15-75..... 53035
Treasury/IRS proposes regulations regarding invalid and questionable withholding exemption certificates (2 documents) 53037

VETERAN BENEFITS
VA amends schedule for rating disabilities; effective 9-9-75 53011
VA establishes nursing home bed quotas for each state; effective 11-10-75 53012

BLOOD
HEW/FDA proposes labeling to distinguish volunteer from paid blood donors; comments by 1-13-76..... 53040

BIOLOGICAL PRODUCTS
USDA/APHIS sets standards for certain vaccines..... 53000

CONTINUED INSIDE

PART II:

INDIAN SELF-DETERMINATION ACT
HEW adopts procurement and contract regulations; effective 11-14-75..... 53121

PART III:

INDIAN HEALTH FACILITIES
HEW/PHS proposes rules governing grants and contracts; effective 11-14-75..... 53141

PART IV:

FEDERAL CAMPAIGN FUNDS
FEC publishes proposed public financing of conventions.. 53157

PART V:

MINIMUM WAGES
Labor/ESA specifies wage determination decisions for Federal and federally assisted construction..... 53161

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FAA—Designation of Federal airways, area low routes, controlled airspace, and reporting points; alteration of control zone and transition area 48501; 10–16–75

List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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ANTIDUMPING
Treasury tentatively modifies findings regarding large power transformers from the United Kingdom; comments by 12–15–75 53047

WORK INCENTIVE PROGRAM
HEW/SRC announces revised limits of entitlement 53053

CABLE TV
FCC amends rules regarding carriage of sports events; effective 11–14–75 53027

TELEPHONES
FCC proposes and adopts revised classes of service (2 documents); comments on proposal by 12–11–75, rule effective 4–1–76 ..... 53015, 53045

CHILDRENS TELEVISION PROGRAMS
FCC requests information concerning commercial practices from broadcasters 53026

AMATEUR RADIO
FCC allows crossband operation of repeater stations; effective 12–15–75 53032

AUTOMOBILE SAFETY
DOT/NHTSA amends standards for windshield zone intrusion; effective 9–1–76 and 9–1–77 53033

PNEUMATIC TIRES
DOT/NHTSA adds new tire sizes for passenger cars; effective 12–15–75 53033

MIXED OXIDE FUEL
NRC announces procedures for environmental impact statement and criteria for licensing 53056

ENVIRONMENTAL IMPACT STATEMENTS
CEQ announces opportunity for public review; comments by 12–29–75 53068
EPA announces availability of comments 53070

TOBACCO
USDA/CCC announces grade loan rates for 1975 crop (2 documents); effective 11–14–75 ..... 52998, 52999

GRAIN PRICE SUPPORT
USDA/CCC revises loan program; effective 11–14–75 52995

REGULATORY REPORTS REVIEW
GAO gives notice of receipt of report proposals; comments by 12–2–75 53078

MEETINGS—
Commodity Futures Trading Commission: Advisory Committee on Definition and Regulation of Market Instruments, 11–19–75 53068
Advisory Committee on the Economic Role of Contract Markets, 12–4–75, 1–29, 3–11, 4–1, and 4–22–76 53068
DOT/NHTSA: National Motor Vehicle Safety Advisory Council, 12–2, 12–3, and 12–4–75 53056
EPA: National Air Quality Criteria Advisory Committee, 12–4–75 53074
Motorcycle Pollution Control, 12–18–75 53074
HEW/NIE: National Council on Education Research, 1–15, 1–16, 3–26, 5–28, and 7–23–76 53051
FCC: Fixed Satellite Advisory Committee, 12–5–75 53077
Radio Technical Commission For Aeronautics: Special Committee 126—Airborne OMEGA Receivers, 12–4–75 53077
Special Committee 129—Future Civil Aviation Frequency Spectrum Requirements, 12–5–75 53077
Special Committee 130—Reliability Specifications for Airborne Electronics Systems, 12–2 and 12–3–75 53077
State: Shipping Coordinating Committee, 12–4–75 53047
National Science Foundation: Advisory Group on Anticipated Advances in Science and Technology, and the Advisory Group on Contributions of Technology to Economic Strength, 12–1 and 12–2–75 53084
Commerce/NOAA: New York Bight Mesa Advisory Committee and Panels, 12–16–75 53051

RESCHEDULED MEETINGS—
DOD: DDR&E High Energy Laser Review Group (2 documents), 12–3, 12–4, and 12–8 thru 12–11–75 53047
National Advisory Council on the Education of Disadvantaged Children: Committee on Early Childhood Education, 11–10 and 11–11–75 53078

contents

AGRICULTURAL MARKETING SERVICE

Rules

Dairy products; grading and inspection; correction 52995
Potatoes grown in Washington 52095

Proposed Rules

Milk marketing orders:
Minneapolis-St. Paul, et al 53038
Northern Louisiana 53038

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Proposed Rules

Fractions; proposed rounding changes 53038

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration; Packers and Stockyards Administration; Soil Conservation Service.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Viruses, serums, toxins, and analogous products:
Biological products 53000

ANTITRUST DIVISION

Notices

Competitive impact statements and consent judgments, U.S. versus listed companies:
Cleveland Trust Co 53047

COMMITTEE FOR THE PURCHASE OF PRODUCTS FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Notices

Procurement list, 1975; additions and deletions (3 documents) 53067

CIVIL AERONAUTICS BOARD

Notices

Hazardous materials transport 53064
Hearings, etc.:
International Air Transport Association 53067
Ozark Air Lines, Inc 53067

COMMERCE DEPARTMENT

See Domestic and International Business Administration; Maritime Administration; National Oceanic and Atmospheric Administration.

COMMODITY CREDIT CORPORATION

Rules

Loan and purchase programs:
- Grains; price support for 1970 and subsequent crops 52995
- Tobacco (burley and fire-cured); price support (2 documents) 52998, 52999

COMMODITY FUTURES TRADING COMMISSION

Notices

Meetings:
- Definition and Regulation of Market Instruments, Advisory Committee 53068
- Economic Role of Contract Markets, Advisory Committee 53068

DEFENSE DEPARTMENT

Notices

Meetings:
- High Energy Laser Review Group (2 documents) 53047

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Adjustment assistance, certification of eligibility to apply for; petitions:
- Vermont Marble Co 53050

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedes decisions 53161

ENVIRONMENTAL PROTECTION AGENCY

Notices

Environmental impact statements and other actions impacting the environment; availability of comments 53070

Meetings:
- Motorcycle regulations 53074
- National Air Quality Criteria Advisory Committee 53074

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental statements, availability 53068

FARMERS HOME ADMINISTRATION

Notices

Disaster areas:
- North Dakota 53049
- Texas 53049

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
- Boeing (2 documents) 53001, 53002
- Britten Norman Ltd 53003
- Caproni Vizzola Costruzioni Aeronautiche Calif 53003
- Hawker Siddeley Aviation Ltd 53003

Standard instrument approach procedures 53004

Proposed Rules

Airworthiness directives:
- Cessna 53044
- Sargent Industries 53044

Restricted areas 53045

VOR Federal airways 53045

FEDERAL COMMUNICATIONS COMMISSION

Rules

Cable television system; carriage of sports programs 53027

Children's Television Programs; advertising practices 53026

Crossband operation of repeater stations 53032

Interstate and foreign message toll telephone service and wide area telephone service; revised classes 53013

Proposed Rules

Communication common carriers:
- Telephone network; new or revised classes of interstate and foreign message toll telephone service (MTS) and wide area telephone service (WATS) 53045

Notices

Hearings, etc.:
- Belote, James H 53074
- Mountain Microwave Corp 53075

Meetings:
- Fixed Satellite Advisory Committee 53077
- Radio Technical Commission for Aeronautics (3 documents) 53077

FEDERAL ELECTION COMMISSION

Proposed Rules

Federal campaign funds:
- Allocation of candidate and committee activities; hearings 53157
- Public financing of conventions; correction 53157

FEDERAL INSURANCE ADMINISTRATION

Rules

National Flood Insurance Program:
- Special hazards map corrections (9 documents) 53008–53011

Proposed Rules

National Flood Insurance Program; flood elevation determinations:
- Missouri 53043
- Massachusetts 53043

FEDERAL MARITIME COMMISSION

Notices

Complaints filed:
- Sea-Land Service, Inc. v. City of Anchorage, Alaska and Totem Ocean Trailer Express, Inc 53078

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Cascade Natural Gas Corp 53079
- Cities Service Gas Co. (2 documents) 53079
- City of Petersburg, Aka 53080
- Columbia Gas Transmission Corp 53080
- Eastern Shore Natural Gas Co 53080
- Florida Gas Transmission Co 53081
- Georgia Power Co 53081
- Louisville Gas & Electric Co. (2 documents) 53081
- Michigan Wisconsin Pipe Line Co 53081
- New England Power Co 53082
- Northern Natural Gas Co 53082
- Northwest Pipeline Corp. (2 documents) 53082, 53083
- Transcontinental Gas Pipe Line Corp 53083

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
- Hollywood Carpets, Inc., et al 53006
- Symbra'ette, et al 53005
- Travel King, Inc., et al 53004

FOOD AND DRUG ADMINISTRATION

Proposed Rules

Blood donors; label statement to distinguish volunteers from paid donors 53040

Color additives, postponement of closing dates 53039

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
- Boise National Forest, Squaw Creek Planning Unit, Idaho 53050

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc 53078

GENERAL SERVICES ADMINISTRATION

Rules

Property management:
- Federal 53012

GEOLOGICAL SURVEY

Notices

Outer Continental Shelf, availability of royalty oil 53048

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration; National Institute of Education; Social and Rehabilitation Service.

Rules

Indian Self-Determination Act; grants and contracts (2 documents) 53121, 53141

Notices

Organizations, functions, and authority delegations:
Health Services Administration 53052
Human Development Office 53053

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration; Housing Production and Mortgage Credit, Office of Assistant Secretary.

HOUSING PRODUCTION AND MORTGAGE CREDIT, OFFICE OF ASSISTANT SECRETARY

Rules

Affirmative fair housing marketing regulations 53008
Mobile homes; construction and safety standards; correction 53008

INTERIOR DEPARTMENT

See also Geological Survey; Land Management Bureau.

Notices

Meetings:
Federal Metal and Nonmetal Mine Safety Advisory Council 53049

INTERNAL REVENUE SERVICE

Proposed Rules

Employment taxes:
Invalid and questionable withholding exemption certificates (2 documents) 53037
Income taxes:
Replacing principal residence; extension of period for replacement 53035

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Electronic audio and other related equipment 53083
U.S. - Canadian Automotive Agreement 53084

INTERSTATE COMMERCE COMMISSION

Notices

Abandonment of railroad services:
Bessemer and Lake Erie Railroad Co 53093
Burlington Northern Inc 53092
Fourth section applications for relief 53093
Hearing assignments 53092
Motor carriers:
Temporary authority termination (2 documents) 53094
Transfer proceedings 53093

INTERSTATE LAND SALES REGISTRATION OFFICE

Notices

Land developers; investigatory hearings, orders of suspension, etc.:
Hidden Valley Lake Subdivision 53055
Lake of the North 53055
Pinery Subdivision 53056

JUSTICE DEPARTMENT

See Antitrust Division.

LABOR DEPARTMENT

See also Employment Standards Administration; Manpower Administration.

Notices

Adjustment assistance:
AMBAC Industries, Inc 53088
Armco Steel Corp 53089
Avon Sole Co 53089
Billig Shoe Co 53090
Harrington and Richardson, Inc 53091
Servco Heel Co 53091
Indo-China Refugees at Fort Chaffee, Ark.; exemption from Service Contract Act 53092

LAND MANAGEMENT BUREAU

Notices

Authority delegations:
District Managers, Colorado 53048

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 53084

MANPOWER ADMINISTRATION

Notices

Employment transfer and business competition determinations; financial assistance applications 53087

MARITIME ADMINISTRATION

Notices

Applications, etc.:
Prudential Lines, Inc 53050

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Notices

Meetings:
Early Childhood Education Committee 53078

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:
Tires, new pneumatic, for passenger cars 53033
Windshield zone intrusion 53033
Rulemaking procedures; initiation of petition; correction 53032

Notices

Meetings:
National Motor Vehicle Safety Advisory Council 53056

NATIONAL INSTITUTE OF EDUCATION

Notices

Meetings:
National Council on Educational Research 53051

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Meeting:
New York Bight MESA Advisory Committee 53051
Threatened species; sea turtles; green, loggerhead, Pacific Ridley; hearing 53051

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Advisory Group on Anticipated Advances in Science and Technology and Advisory Group on Contributions of Technology to Economic Strength 53084

NUCLEAR REGULATORY COMMISSION

Notices

Mixed oxide fuel; scope, procedures, and schedule for generic environmental impact statement and criteria for interim licensing actions 53056
Applications, etc.:
Omaha Public Power District and Nebraska Public Power District 53063
Vermont Yankee Nuclear Power Corp 53064

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Posting and depositing of stockyards:
Maysville Stock Yards, Maysville, Ky., et al 53050

PRESIDENTIAL CLEMENCY BOARD

Rules

Vacation of title 52995

SECURITIES AND EXCHANGE COMMISSION

Proposed Rules

Securities Exchange Act:
Broker-dealer; financial and operational reporting 53046

Notices

Self-regulatory organizations; proposed rule change 53085

Hearings, etc.

National Association of Securities Dealers, Inc 53085

SELECTIVE SERVICE SYSTEM

Rules

Clemency program; transfer of regulations 53011

SMALL BUSINESS ADMINISTRATION

Notices

Disaster areas:
Florida 53087
New York 53087

SOCIAL AND REHABILITATION SERVICE

Notices

Work incentive program; social and supportive services:
Revised funding limits 53053

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
Elm Creek, Tex 53050

STATE DEPARTMENT

Notices

Meetings:
Shipping Coordinating Committee 53047

TRANSPORTATION DEPARTMENT

See Federal Aviation Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT

See also Internal Revenue Service.

Notices

Antidumping:
Power transformers from United Kingdom 53047

VETERANS ADMINISTRATION

Rules

State home facilities for furnishing nursing-home care 53011
Disabilities; schedule for ratings 53012

WAGE AND PRICE STABILITY COUNCIL

Notices

Meetings:
Steel price study; symposium 53070

list of cfr parts affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

2 CFR
Ch.'s I–II 52995

7 CFR
58 52995
946 52995
1421 52995
1464 (2 documents) 52998, 52999
PROPOSED RULES:
793 53038
1060 53038
1061 53038
1068 53038
1076 53038
1096 53038

9 CFR
113 53000

11 CFR
PROPOSED RULES:
106 53159
120 53159
121 53159
122 53159
123 53159
124 53159

14 CFR
39 (5 documents) 53001–53003
97 53004
PROPOSED RULES:
39 (2 documents) 53044
71 53045
73 53045

16 CFR
13 (3 documents) 53004–53006

17 CFR
PROPOSED RULES:
240 53046
249 53046

21 CFR
PROPOSED RULES:
8 53039
610 53040
640 53040

24 CFR
200 53008
280 53008
1916 (4 documents) 53008, 53009
1917 53010
1920 (4 documents) 53010, 53011
PROPOSED RULES:
1917 (2 documents) 53043

26 CFR
PROPOSED RULES:
1 53035
31 (2 documents) 53037

32 CFR
1700 53011

38 CFR
4 53011
17 53012

41 CFR
3–4 53122
101–32 53012

42 CFR
36 53142

47 CFR
68 53013
73 53026
76 53027
97 53032
PROPOSED RULES:
68 53045

49 CFR
553 53032
571 (2 documents) 53033

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during November.

1 CFR

PROPOSED RULES:
425 ... 52416
430 ... 52056
431 ... 52054

2 CFR
Ch's. I–II ... 52995

3 CFR

EXECUTIVE ORDERS:
11887 ... 51411

PROCLAMATIONS:
4405 ... 51409
4406 ... 51613
4407 ... 51615
4408 ... 51617
4409 ... 52583

5 CFR
6 (Amended by EO 11887) ... 51411
213 ... 51009, 52339, 52715, 52836

7 CFR
2 ... 52715
24 ... 51995
58 ... 52995
401 ... 52339, 52585–52592, 52715
402 ... 52592
403 ... 52592
404 ... 52592
406 ... 52592
408 ... 52592
409 ... 52592
410 ... 52592
413 ... 52593
701 ... 52340
722 ... 51177, 51178, 52715
728 ... 52593
775 ... 52598, 52716
905 ... 51619
906 ... 51177
908 ... 51619
911 ... 52603
915 ... 52605
929 ... 51620
946 ... 52995
971 ... 52836
984 ... 51995
993 ... 52837
1421 ... 52350, 52351, 52606, 52995
1430 ... 51413
1464 ... 52998, 52999
1822 ... 51621, 52836, 52837
1831 ... 52607

PROPOSED RULES:
42 ... 52735
52 ... 52038
729 ... 52613
793 ... 53038
909 ... 51052
981 ... 51646
984 ... 51473, 51646
1060 ... 51052, 53038
1061 ... 51052, 53038
1068 ... 51052, 53038
1069 ... 51052, 53038

7 CFR—Continued

PROPOSED RULES—Continued
1076 ... 51052, 53038
1094 ... 52854
1096 ... 53038
1803 ... 52854

9 CFR
78 ... 52838
92 ... 52716, 52717
102 ... 51413
108 ... 51413
112 ... 51414
113 ... 51414, 53000

PROPOSED RULES:
113 ... 51646
314 ... 52854
318 ... 52614
381 ... 52614

10 CFR
2 ... 51995
73 ... 52840
210 ... 52841
213 ... 52353

RULINGS:
1975–10 ... 51414

PROPOSED RULES:
212 ... 51656
790 ... 52857

11 CFR

PROPOSED RULES:
106 ... 53139
107 ... 51610
120 ... 51348, 53159
121 ... 51348, 53139
122 ... 51348, 53159
123 ... 51348, 53159
124 ... 51348, 53159

12 CFR
206 ... 52843
208 ... 51179
541 ... 51414, 51415
555 ... 52353
569a ... 52717

13 CFR
114 ... 52717
121 ... 51033

PROPOSED RULES:
103 ... 51069
113 ... 51670

14 CFR
39 ... 51415, 51996, 52607, 52608, 52717–52721, 53001–53003
71 ... 51033, 51416, 51622, 51997, 52608, 52722
95 ... 52224
97 ... 51622, 51623, 53004
208 ... 51180
372 ... 52354
373 ... 52355
378 ... 52355
378a ... 51416, 52356

14 CFR—Continued

PROPOSED RULES:
36 ... 51476
39 ... 51202, 52744, 53044
71 ... 51058, 51481, 51655, 52051, 52409, 53045
73 ... 53045
75 ... 52409

15 CFR
4b ... 51168

PROPOSED RULES:
60 ... 52045
923 ... 52405

16 CFR
13 ... 51180, 51417–51420, 52809, 52818, 53004–53006
435 ... 51582
1001 ... 51363
1012 ... 51363
1500 ... 52815, 52828
1512 ... 52815, 52828

PROPOSED RULES:
450 ... 52631
1207 ... 52856

17 CFR
200 ... 51183, 52722
240 ... 51184, 52356, 53046
249 ... 53046
249b ... 51184, 52356

PROPOSED RULES:
Ch. II ... 51204
239 ... 51656
240 ... 51656
249 ... 51656

18 CFR
2 ... 51033, 51998
157 ... 51034
260 ... 51999

19 CFR
10 ... 51420
24 ... 51420

PROPOSED RULES:
103 ... 51201
113 ... 51445

20 CFR
395 ... 52844
405 ... 51055, 52738
416 ... 51624, 52742
601 ... 51999
619 ... 51600

PROPOSED RULES:
404 ... 52408
405 ... 51474
410 ... 51475, 52408
416 ... 52408

21 CFR
Ch. I ... 52361
121 ... 51034, 51625, 52608
128d ... 51194
201 ... 52000
207 ... 52000, 52788
430 ... 52003
431 ... 52003
436 ... 51625, 52003
442 ... 51625

21 CFR—Continued
450 ... 52005
514 ... 52609
520 ... 52722
558 ... 52723
561 ... 52006
601 ... 52788
607 ... 52788
1030 ... 52007, 52788
1303 ... 52844
1308 ... 52609
PROPOSED RULES:
1 ... 52172
8 ... 53039
10 ... 52172
27 ... 52172
51 ... 52172
53 ... 52172
102 ... 51052, 52616
121 ... 52738
310 ... 52049
600 ... 52619
610 ... 52619, 52621, 53040
640 ... 52619, 53040
660 ... 52621, 52623
950 ... 52051
951 ... 52051
952 ... 52051

22 CFR
6a ... 51194

24 CFR
200 ... 53008
236 ... 52844
280 ... 52706, 53008
425 ... 52845
1914 ... 51045, 51626
1915 ... 51047, 51628
1916 ... 53008, 53009
1917 ... 51442, 53010
1920 ... 51632–51635, 52362–52367, 53010, 53011
PROPOSED RULES:
235 ... 52216
280 ... 52709
1917 ... 53043

25 CFR
221 ... 52845, 52846, 52610
271 ... 51286
272 ... 51300
273 ... 51303
274 ... 51310
275 ... 51316
276 ... 51316
277 ... 51327

26 CFR
11 ... 51421, 51435, 51635
PROPOSED RULES:
1 ... 51445, 51467, 52417, 52418, 53035
31 ... 53037

27 CFR
PROPOSED RULES:
4 ... 52613
5 ... 52613
7 ... 52613

28 CFR
16 ... 52007
20 ... 52846

29 CFR
870 ... 52610
1952 ... 52367
2510 ... 52008
2530 ... 52724
2608 ... 51368
2609 ... 51373

30 CFR
250 ... 51199
PROPOSED RULES:
55 ... 51202
56 ... 51202
57 ... 51202
211 ... 51646
216 ... 51646

31 CFR
51 ... 51035
224 ... 51194

32 CFR
1700 ... 53011
1453 ... 51413
PROPOSED RULES:
216 ... 52734

33 CFR
110 ... 51637
117 ... 51195, 51637
148 ... 52553
149 ... 52565
150 ... 52572
183 ... 51440
263 ... 51133
264 ... 51146
275 ... 51146
290 ... 52516
291 ... 52521
292 ... 52522
293 ... 52525
294 ... 52527
295 ... 52530
384 ... 51132
393 ... 52533
PROPOSED RULES:
117 ... 51202
148 ... 52581

34 CFR
256 ... 51038

35 CFR
5 ... 52368

36 CFR
212 ... 52611
1002 ... 52369
PROPOSED RULES:
606 ... 52630

38 CFR
4 ... 53011
17 ... 53012
256 ... 51038
PROPOSED RULES:
1 ... 51204

39 CFR
762 ... 52371

40 CFR
52 ... 51043, 51044, 51195, 52373, 52374, 52847
79 ... 52009
180 ... 51044, 52724
406 ... 52014
435 ... 52847
440 ... 51722
PROPOSED RULES:
52 ... 51203, 51655, 52410
85 ... 52415, 52416
180 ... 52744
244 ... 52968
435 ... 52857
440 ... 51738

41 CFR
1–30 ... 51038
3–4 ... 53122
9–7 ... 51196
14H–70 ... 51331
15–1 ... 51196
51–8 ... 51168
101–32 ... 53012
105–64 ... 52800
114–41 ... 52847
PROPOSED RULES:
8–1 ... 52632
8–4 ... 52632
8–16 ... 52632

42 CFR
36 ... 53142

43 CFR
3300 ... 52847
PUBLIC LAND ORDER:
5544 ... 51038, 52611
PROPOSED RULES:
23 ... 51646
3040 ... 51646

45 CFR
46 ... 51638
118 ... 51010
204 ... 51443
205 ... 52375
225 ... 51444
232 ... 52376
234 ... 52376
237 ... 52376
248 ... 52019
249 ... 52019
250 ... 52020
302 ... 52376
304 ... 52376
801 ... 51444
1061 ... 52377
1150 ... 51196
1221 ... 52384
1601 ... 52021
1602 ... 52847
PROPOSED RULES:
50 ... 52407
103 ... 51654, 52405, 52962
121k ... 52628
133 ... 52048
249 ... 51474
1501 ... 52630

46 CFR

146 52027
526 52385
536 51440
551 52385

PROPOSED RULES:

536 52631

47 CFR

0 ..... 51441, 52724
1 ..... 51441, 52724
31 52725
33 52725
68 53013
73 ..... 51038–51043, 51441, 52028, 52729–52731, 53026
76 ..... 52731, 53027
97 53032

PROPOSED RULES:

2 52745
68 53045

47 CFR—Continued

PROPOSED RULES—Continued

73 ..... 51481–51483, 52053
76 52053
83 ..... 51059, 51483
87 52745
89 52857
91 52857
93 52857

49 CFR

171 52037
393 ..... 51198, 52851
520 52395
553 53032
571 53033
1033 ..... 51198, 51442, 52037, 52611
1047 51442
1104 51380
1115 51199
1201 51640
1202 51640
1206 51640

49 CFR—Continued

1207 51641
1209 51641
1210 51642
1240 51642
1249 51645

PROPOSED RULES:

192 52855
571 ..... 51059, 52856
572 51059
1003 52058
1063 52063
1100 ..... 51483, 52058, 52417

50 CFR

20 52852
28 ..... 51199, 52852
32 52037
33 ..... 52612, 52733, 52851

PROPOSED RULES:

285 51647

FEDERAL REGISTER PAGES AND DATES—NOVEMBER

Pages	*Date*
51009–51176	3
51177–51407	4
51409–51612	5
51613–51994	6
51995–52337	7
52339–52582	10
52583–52713	11
52715–52807	12
52809–52993	13
52995–53221	14

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 2—Clemency

VACATION OF TITLE

EDITORIAL NOTE. The Presidential Clemency Board was abolished by Executive order 11878 (40 FR 42731, Sept. 16, 1975). Since the clemency program is expiring, Title 2 of the Code of Federal Regulations is being vacated as follows:

1. Chapter I, Presidential Clemency Board, consisting of Part 101, Administrative procedures, and Part 102, Substantive standards of the Presidential Clemency Board, is deleted.

2. Chapter II, Selective Service System, consisting of Part 200, Reconciliation Service, is tranferred to Title 32, Chapter XVII, Selective Service System (Clemency Program), consisting of Part 1700, Reconciliation Service.

This vacation of regulations is made pursuant to 1 CFR 8.2 which authorizes the Director of the Federal Register to rearrange existing assignments in the Code of Federal Regulations in order to provide for its orderly development.

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED DAIRY PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products; Fees and Charges; Correction

In FR Doc. 75-29149 appearing at page 50455 in the FEDERAL REGISTER of October 30, 1975, the following changes should be made:

1. Under the heading "Statement of considerations leading to amendment of regulations":

In § 58.43, the night differential rate for inspection, grading and sampling services is corrected in the fourth line of that Section to read, "$17.60/hour to $18.70/hour."

In § 58.47, the Holiday, Saturday, Sunday or overtime rate is corrected in the fourth and fifth lines of that Section to read "$26.60/hour to $29.70/hour."

2. In § 58.47 as amended the charge or overtime (work in excess of each for holiday, Saturday or Sunday work eight-hour shift Monday through Friday) is corrected in the last line of that Section to read "$29.70" per hour.

Done at Washington, D.C. this 10th day of November 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-30727 Filed 11-13-75;8:45 am]

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

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Amendment No. 1 to Handling Regulation

This amendment permits potatoes with damage due to internal discoloration to be included in the additional 10 percent tolerance currently allowed for potatoes with hollow heart when packed in 50-pound cartons.

Findings. (a) Pursuant to Marketing Agreement No. 113 and Marketing Order No. 946, both as amended (7 CFR Part 946), regulating the handling of Irish potatoes grown in Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of recommendations and information submitted by the State of Washington Potato Committee, and other available information, it is hereby found that the amendment to the handling regulation hereinafter set forth will tend to effectuate the declared policy of the act.

The incidence of internal browning has reached significant proportions in the production area. One of the major shippers reports internal browning in an average of 5½ percent of all production area potatoes bought by them and ranging as high as 17 percent. The committee anticipates no decline in the overall quality of Washington potato shipments inasmuch as the 10 percent tolerance remains unchanged and believes this action will be beneficial to the trade.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rule making procedure and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) to ensure maximum benefits to producers, this regulation should apply to as many shipments as possible during the effective period, (2) compliance with this part will require no special preparation on the part of the handlers, (3) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (4) this amendment partially relieves restrictions.

Paragraph (c) of § 946.330 is hereby revised to read as follows:

§ 946.330 Handling regulation.

* * * * *

(c) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes that fail to meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped provided the lot contains not more than 10 percent damage by hollow heart and/or internal discoloration, as identified by USDA Color Photograph E (Internal Discoloration—U.S. No. 2—Upper Limit), POT-CP-9, May 1972, or not more than 5 percent serious damage by internal defects.

* * * * *

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

Dated November 11, 1975, to become effective November 11, 1975

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

[FR Doc.75-30788 Filed 11-13-75;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

[CCC Grain Price Support Regulations, Amendment 8]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

General Regulations Governing Price Support for the 1970 and Subsequent Crops

The regulations issued by the Commodity Credit Corporation, (CCC), published at 35 FR 7363 and 7781, as amended, containing the General Regulations Governing Price Support for the 1970 and Subsequent Crops of Grain and Similarly Handled Commodities are hereby amended as follows:

1. Section 1421.1 is amended to delete references to dry edible beans, flaxseed, and soybeans. Loan programs for these commodities are no longer in effect. The amended section reads as follows:

§ 1421.1 General statement.

This subpart contains the regulations which set forth the general requirements with respect to price support loans and purchases for the 1970 crop and each subsequent crop of barley, corn, oats, rice, rye, sorghums, farm-stored peanuts, tung oil, farm-stored tobacco, and wheat. Price support shall be made available for a particular crop of any such commodity only if an annual commodity supplement applicable to the crop is issued authorizing a price support program. The regulations in this subpart shall also apply to other commodities to the extent specified in the regulations applicable to such commodities. Price support payment-in-kind regulations, where applicable, will be issued separately. Farm storage loans will be evidenced by notes and secured by chattel mortgages and security agreements. Warehouse storage

loans will be evidenced by notes and security agreements and secured by the pledge of warehouse receipts representing an eligible commodity stored in approved warehouse storage. A producer may sell to CCC any or all of his eligible commodity which is not security for a price support loan by delivering the commodity to CCC or by delivering warehouse receipts representing the commodity in approved warehouse storage. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation, and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

2. Paragraph (a) of § 1421.2 is amended to show the Deputy Administrator and division responsible for administering the programs. The amended paragraph reads as follows:

§ 1421.2 Administration.

(a) *Responsibility.* The Grains, Oilseeds and Cotton Division, ASCS, will administer the regulations in this subpart under the general supervision and direction of the Deputy Administrator, Programs, ASCS, in accordance with program provisions and policy determined by the CCC Board of Directors and the Executive Vice President, CCC. In the field, the regulations in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees (hereinafter called State and county committees), ASCS Commodity Office and the ASCS Data Systems Field Office.

* * * * *

3. Paragraph (g) of § 1421.3 is amended to delete references to dry edible beans and soybeans. The amended paragraph reads as follows:

§ 1421.3 Eligible producers.

* * * * *

(g) *Approved cooperative.* A cooperative marketing association which is approved by the Executive Vice President, CCC, pursuant to Part 1425 of this chapter, to obtain price support on a crop of rice or tung oil may obtain price support on eligible production of such crop of the commodity on behalf of its members. The term "producer" as used in this subpart and on applicable forms shall refer both to an eligible producer as defined in paragraphs (a), (b), and (c) of this section and to an approved cooperative marketing association.

4. Paragraph (b) of § 1421.4 is amended to provide that price suport on barley, corn, oats, rye, sorghums, and wheat shall be available on such commodities produced in any area of the United States. Price support on rice shall be available only on rice produced in the continental United States and price support on tung oil, peanuts, and tobacco shall be available only on such commodities produced in certain States. Paragraph (b) is also amended to provide that commodities must not have been produced on land occupied without a lease, permit, or other right of possession. Tobacco and peanuts are not eligible for price support if produced on land owned by the United States in violation of the lease since such commodities are determined to be in surplus supply. The amended paragraph reads as follows:

§ 1421.4 Eligibility requirements.

* * * * *

(b) *Area of availability.* Price support shall be available to eligible producers on barley, corn, oats, rye, sorghums, and wheat produced in any area of the United States. Price support shall be available on rice produced only in the continental United States and price support on farm-stored peanuts, tung oil, and farm-stored tobacco shall be available only in the States specified in the regulations applicable to such commodities. Commodities must not have been produced on land owned by the Federal Government if such land is occupied without lease, permit, or other right of possession. Tobacco and peanuts produced on land owned by the Federal Government in violation of the lease shall not be eligible for price support.

* * * * *

§ 1421.6 [Amended]

5. Paragraph (d) of § 1421.6 is deleted. Because of the anniversary loan date recently adopted for loans the commodities can enter marketing channels at a pace the market can absorb without difficulty. Therefore, there is no longer any need for the extended loan program. Paragraph (e) of § 1421.6 is redesignated as (d).

6. Section 1421.8 is amended to delete forms no longer in use. The amended section reads as follows:

§ 1421.8 Applicable forms.

The forms for use in connection with this program shall be as follows: Form CCC-614, Purchase Agreement; Form CCC-677, Farm Storage Note, Chattel Mortgage, and Security Agreement; Form CCC-678, Warehouse Storage Note and Security Agreement; Form CCC-679, Lien Waiver; Form CCC-681, Authorization for Removal of Farm Stored Collateral; Form CCC-685, Authorization to Release Warehouse Receipts; Form CCC-687-1, Approval to Move Loan Collateral; Form CCC-691, Commodity Delivery Notice; Form CCC-692, Settlement Statement; Form CCC-693, Price Support Settlement Intention (Farm Storage); Form CCC-694, Price Support Settlement Intention (Warehouse Storage); Form CCC-828, List Furnished to Cooperative Associations; Form CCC-864, Lienholder's Subordination Agreement; and such other forms as may be prescribed by CCC. These forms may be obtained in State and county offices.

7. Paragraph (b) of Section 1421.9 is amended to delete reference to dry edible beans. The amended paragraph reads as follows:

§ 1421.9 Warehouse receipts.

* * * * *

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipts must be properly endorsed in blank so as to vest title in the holder. Receipts must be issued by an approved warehouse and, except in the case of rice, must represent a commodity which is deemed to be stored commingled. The receipts must be negotiable, must cover the eligible commodity actually in storage in the warehouse of original deposit, and must be registered or recorded with appropriate State or local officials when required by State law.

* * * * *

8. Paragraph (a) of § 1421.11 is amended to show the increased loan fees applicable to farm-stored and warehouse-stored loans. The amended paragraph reads as follows:

§ 1421.11 Fees and charges.

(a) *Loan service fee.* A producer shall pay a loan service fee of $10 for each farm storage loan disbursed, plus $1 for each bin over one, and $6 for each warehouse storage loan disbursed, plus $1 for each warehouse receipt over one. The loan service fee is not refundable.

* * * * *

9. Paragraph (d) of § 1421.18 is amended to delete the provision that farm-stored loans can be transferred to warehouse-stored loans after the maturity date. This provision is no longer needed since loans will not be extended. The amended paragraph reads as follows:

§ 1421.18 Farm storage loans.

* * * * *

(d) *Transfer from farm storage loan to warehouse storage loan.* Upon request by the producer, the county committee may approve the transfer of a commodity or part thereof which is under a farm storage loan to a warehouse storage loan at any time during the loan period. Liquidation of the farm storage loan or part thereof shall be made through the pledge of warehouse receipts for the commodity placed under warehouse storage loan and the immediate payment by the producer of the amount by which the warehouse storage loan is less than the farm storage loan or part thereof plus interest. Any amounts due the producer shall be disbursed by the county office.

* * * * *

10. Paragraph (a) of § 1421.20 is amended to delete reference to the reseal program and to provide that an eligible commodity of the same kind and same crop year may be delivered in satisfaction of the farm-stored loan. The amended paragraph reads as follows:

§ 1421.20 Liquidation of farm storage loans.

(a) *General.* In the case of farm storage loans, the producer is required to pay off his loan or deliver to CCC a sufficient quantity of the eligible commodity having a price support value equal to or greater than the outstanding balance of the loan. Deliveries may be either of the identical commodity which is subject to the chattel mortgage or of other eligible commodity of the same kind and of the same crop year. Deliveries shall be made in accordance with written instructions issued by the county office which shall

set forth the time and place of delivery. Any quantity delivered in excess of the quantity necessary to settle the amount due on the loan may be delivered to CCC with settlement as provided in § 1421.23.

* * * * *

11. Paragraphs (a) and (b) of § 1421.22 are amended to provide that the producer must execute and file the purchase agreement prior to the final maturity date for the commodity.

§ 1421.22 Purchase agreements.

(a) *Quantity eligible for purchase.* An eligible producer may sell to CCC any or all of his eligible commodity which is not mortgaged to CCC under a farm-storage loan or pledged to CCC under a warehouse-storage loan: *Provided,* That he executes and delivers to the county office prior to the final maturity date for the commodity a Purchase Agreement (Form CCC–614) indicating the approximate quantity of the commodity he will sell to CCC.

(b) *Delivery period.* In the case of an eligible commodity not in an approved warehouse, the producer must make delivery of the commodity he desires to sell to CCC within the period of time after the final loan maturity date as specified in delivery instructions issued by the county office. The county office, for good cause, may extend the time for delivery. In the case of eligible commodities stored in an approved warehouse, the producer must submit to the county office, not earlier than 10 days before the final maturity date nor later than the day after the final maturity date warehouse receipts for the quantity of the commodity he elects to sell to CCC. Notwithstanding any of the provisions of this § 1421.22, in the case of an eligible farm stored commodity covered by an approved Purchase Agreement (Form CCC–614) the county committee may on request of the producer authorize delivery of the commodity before the final maturity date for the commodity if the producer loses control of the storage structure or if there is insect infestation that cannot be controlled, danger of flood, or damage to the storage structure, making it unsafe to continue storage of the commodity on the farm.

12. Paragraphs (a), (c), (e), (f), and (l) of § 1421.23 are amended to delete references to flaxseed, dry edible beans, and soybeans. Paragraph (c), (h), (i), and (l) of § 1421.23 are amended to delete the reference to storage agreement rates.

Paragraph (m) is deleted since CCC will no longer reconcentrate grain under loan. The amended paragraphs (a), (c), (e), (f), (h), (i), and (l) read as follows:

§ 1421.23 Settlement.

(a) *General.* Settlement with producers for commodities acquired by CCC under loans or purchases made under this subpart will be made as provided in this section and in the applicable commodity supplement. The support rate at which settlement will be made shall be determined under the provisions of the applicable commodity supplement. Settlement will be made on the basis of the grade, quality, and quantity of the commodity delivered by the producer. In the case of rice, paragraphs (b), (c), (e), (g), and (h) of this section shall not apply.

* * * * *

(c) *Other than approved warehouse storage.* (1) Settlement for corn and oats delivered from other than approved warehouse storage shall be based (i) on the basic county support rate for the county where the commodity was produced, and (ii) on the quality and quantity delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose.

(2) Settlement for barley, sorghums, rye, and wheat delivered from other than approved warehouse storage shall be based on the applicable support rate for the county in which the producer's customary shipping point (as determined by the county committee) is located, except that if the producer is directed to deliver his commodity to a warehouse located within the switching limits of a designated terminal market, and such movement is made by truck or barge, settlement shall be made in the manner prescribed in the support rate section of the applicable commodity supplement. If the producer is directed to ship its commodity by rail to a designated terminal market or to a warehouse for storage in line of transit to such market, settlement shall be based on the support rate established for the county from which the commodity was shipped plus the amount of freight charges per bushel actually paid in and the truck receiving and rail load-out charges charged by the shipping warehouse. Settlement shall be based on the quality and quantity delivered as indicated on warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made or, if applicable, the quantity and quality delivered as shown on a form prescribed by CCC.

* * * * *

(e) *Compensation for hauling.* When a producer is directed by the county office to haul his commodity a greater distance than would have been necessary to make delivery to his customary delivery point, he will be allowed compensation (as determined by the State committee at not to exceed the common carrier truck rate or the rate available from local truckers) for hauling the eligible commodity the additional distance: *Provided, however,* That, in the case of barley, sorghums, rye, and wheat, if the producer is directed to deliver his commodity to a warehouse located within the switching limits of a designated terminal market, no compensation shall be allowed for hauling. In determining the rate of payment for excess hauling, the State committee may establish reasonable mileage minimums below which producers will not receive compensation for hauling.

(f) *Trackloading—(1) Delivery.* Producers may request trackloading where approved warehouse space is not available locally or where the county office determines that it would be to the benefit of CCC. Where local weighing facilities are not available or when requested by producers, destination weights may be used for settlement purposes. All producers loading in the same car must sign an agreement stating the percentage share of the total quantity to be credited to each. When requested by producers prior to delivery of the commodity, settlement may be made on the basis of destination grades. Such destination grade determination for a car shall be applied to the entire quantity of a commodity loaded into the same car, irrespective of the grade or quality of a commodity loaded into the car by any producer.

(2) *Payments.* A trackloading payment of 4½ cents per bushel (or 7½ cents per hundredweight in the case of sorghum, and rice) shall be made to the producer on an eligible commodity delivered to CCC on track at a country point.

* * * * *

(h) *Warehouse storage loans called prior to maturity and not redeemed.* A refund of warehouse storage charges will be made by CCC to the producer if (1) the maturity date of a warehouse storage loan is accelerated by CCC for reasons other than any wrongful act or omission on the part of the producer, and the commodity is not redeemed, and (2) storage charges have been prepaid by the producer for a period subsequent to the accelerated maturity date. The amount of the storage charges to be refunded shall be computed at the rate prepaid by the producer for the period of unearned storage.

(i) *Refund of prepaid handling charges.* If a warehouseman charges the producer for the receiving or the receiving and loading out charges on an eligible commodity in an approved warehouse, the producer shall, upon delivery to CCC of warehouse receipts representing the commodity stored in such warehouse, be reimbursed or given credit by the county office for such prepaid charges at the rate prepaid by the producer. The producer must furnish to the county office, written evidence signed by the warehouseman that such charges have been paid.

* * * * *

(l) *Storage payment where CCC is unable to take delivery.* A producer may be required to retain a commodity stored in other than an approved warehouse under loan or for sale to CCC for a period of 60 days after the maturity date without any cost to CCC. If CCC is unable to take delivery of the commodity within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the commodity to CCC: *Provided,* That, in the case of sales to CCC, a storage payment shall be paid a producer whose commodity is stored in other than an approved warehouse only if he had properly given notice of his intention to sell the commodity to CCC. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after the

maturity date and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment for grains shall be computed at the rate furnished by the storing warehouse. The storage payment for rice shall be computed at the rate for commodities stored on an identity-preserved basis at the rate furnished by the storing warehouse.

14. Paragraphs (a) and (b) of § 1421.29 are amended to show the new address for the ASCS Commodity Office and the Data Systems Field Office. The amended paragraphs read as follows:

§ 1421.29 ASCS Commodity Office and Data Systems Field Office.

(a) Prairie Village ASCS Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas 66208, will serve all States.

(b) Accounting, recording, and reporting for all States will be handled through Data Systems Field Office, P.O. Box 205, Kansas City, Missouri 64141.

The operating provisions contained herein have been publicly announced and are currently being administered. Such provisions are needed to effectively administer price support programs; therefore, it is found and determined that compliance with the notice of proposed rulemaking procedure would be impracticable and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 101, 105, 107, 301, 401, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1441 note, 1445a, 1447, 1421, 1425))

Effective date: This amendment shall be effective on November 14, 1975.

Signed at Washington, D.C., on November 7, 1975.

E. J. PERSON,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.75-30794 Filed 11-13-75;8:45 am]

PART 1464—TOBACCO

1975-Crop—Fire-Cured, Dark Air-Cured and Virginia Sun-Cured, Loan Rate Schedules

On October 2, 1975, there was published in the FEDERAL REGISTER (40 FR 45444) a notice of proposed rulemaking setting forth the proposed price support grade loan rate schedues for 1975-crop fire-cured, dark air-cured, and Virginia sun-cured tobacco. Interested parties were given the opportunity to submit, not later than October 31, 1975, data, views and recommendations pertaining to the grade loan rates.

No unfavorable comments have been received, and the proposed loan rates are hereby adopted without change and are set forth below. The material previously appearing under the section numbers shown below remains applicable to the crop to which each refers.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c); secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1445, 1421, 1423)).

Effective Date: November 14, 1975.

Signed at Washington, D.C. on: November 7, 1975.

E. J. PERSON,
Acting Executive Vice President,
Commodity Credit Corporation.

Part 1464 is amended as follows:

§ 1464.17 1975 Crop—Virginia Fire-Cured Tobacco, Type 21—Grade Loan Schedule.[1]

Loan rate

[Dollars per hundred pounds, farm sales weight]

Grade	Length				
	47	46	45	44	43
A1F	86	86	86		
A2F	83	83	84		
A1D	86	86	86		
A2D	83	83	83		
B1F	85	85	85		
B2F	80	80	81	76	
B3F	74	74	75	73	64
B4F	70	70	71	68	61
B5F	63	63	64	63	58
B1D	84	84	84		
B2D	78	78	79	74	
B3D	70	70	71	69	63
B4D	65	65	66	65	60
B5D	60	60	61	60	57
B3M	66	66	67	64	62
B4M	63	63	65	63	60
B5M	60	60	61	60	53
B3G	64	64	65	64	60
B4G	62	62	64	63	59
B5G	59	59	60	59	55

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged) or scrap will not be accepted. The Association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

Grade	Length			
	47	46	45	44
C1L	90	90	90	
C2L	86	86	86	78
C3L	77	77	77	75
C4L	69	69	69	68
C5L	64	64	65	62
C1F	90	90	90	
C2F	86	86	86	78
C3F	77	77	77	71
C4F	70	70	70	69
C5F	65	66	67	64
C2D	64	64	65	63
C3D	62	62	63	61
C4D	59	59	60	59
C5D	55	55	56	54
C3M	65	65	66	65
C4M	63	63	65	64
C5M	59	59	60	59
C3G	60	60	61	59
C4G	57	57	59	58
C5G	54	54	55	53

Grade		Grade	
X1L	72	X3M 45	63
X2L	71	X4M	63
X3L	70	X4M 45	60
X4L	67	X5M	58
X5L	63	X5M 45	57
X1F	72	X3G	65
X2F	71	X3G 45	62
X3F	70	X4G	61
X4F	66	X4G 45	59
X5F	63	X5G	57
X1D	68	X5G 45	55
X2D	66	N1L	52
X3D	65	N1D	47
X4D	62	N1G	51
X5D	56	N2	37
X3M	65		

§ 1464.18 1975-Crop — Kentucky-Tennessee Fire-Cured Tobacco, Types 22 and 23—Grade Loan Schedule.[2]

Loan rate

[Dollars per hundred pounds, farm sales weight]

Grade	Length		
	47	46	45
A1F	94	94	94
A2F	89	89	89
A3F	81	81	81
A1D	94	94	94
A2D	89	89	89
A3D	81	81	81

Grade	Length				
	47	46	45	44	43
B1F	81	81	81	76	
B2F	78	78	78	74	
B3F	74	74	74	71	66
B4F	68	68	68	65	58
B5F	64	64	64	61	55
B1D	80	80	80	75	
B2D	77	77	77	73	
B3D	74	74	74	70	64
B4D	67	67	67	64	57
B5D	63	63	63	59	53
B3M	69	69	69	65	60
B4M	64	64	64	60	53
B5M	59	59	59	54	49
B3VF	68	68	68	64	57
B4VF	66	66	66	63	56
B5VF	62	62	62	59	52
B3G	68	68	68	64	56
B4G	63	63	63	59	51
B5G	59	59	59	54	49
C1L	82	82	82	78	
C2L	79	79	79	76	
C3L	75	75	75	71	65
C4L	71	71	71	68	62
C5L	68	68	68	66	59
C1F	80	80	80	76	
C2F	77	77	77	74	

[2] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound)", "D" (damaged), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable.

Grade	Length		
	46	45	44
C3F	74	74	71	64
C4F	70	70	67	60
C5F	68	68	64	57
C1D	82	82	77	
C2D	73	73	70	
C3D	68	68	65	59
C4D	62	62	60	54
C5D	61	61	59	52
C3M	67	67	64	58
C4M	63	63	62	56
C5M	61	61	59	50
C3VF	68	68	65	59
C4VF	65	65	63	57
C5VF	63	63	61	52
C3G	63	63	60	55
C4G	60	60	56	51
C5G	56	56	53	50

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate	Grade	Advance rate
X1L	70	X5D	56
X2L	68	X3M	60
X3L	67	X4M	57
X4L	62	X5M	54
X5L	60	X3VF	61
X1F	69	X4VF	59
X2F	67	X5VF	56
X3F	66	X3G	58
X4F	62	X4G	53
X5F	60	X5G	50
X1D	67	N1L	52
X2D	64	N1D	47
X3D	61	N1G	46
X4D	59	N2	40

§ 1464.19 1975-Crop—Dark Air-Cured Tobacco, Type 35 and 36—Grade Loan Schedule.[3]

Loan rate

[Dollars per hundred pounds, farm sales weight]

Grade	Length		
	46	45	44
A1F	83	83	
A2F	79	79	
A3F	74	74	
A1R	83	83	
A2R	79	79	
A3R	74	74	
B1F	77	77	74
B2F	72	72	71
B3F	69	69	67
B4F	64	64	63
B5F	59	59	58
B1R	76	76	74
B2R	71	71	70
B3R	67	67	66
B4R	63	63	62
B5R	59	59	58
B1D	76	76	74
B2D	71	71	70
B3D	67	67	66
B4D	64	64	63
B5D	57	57	56
B3M	64	64	63
B4M	60	60	59
B5M	54	54	53
B3G	63	63	62
B4G	60	60	59
B5G	54	54	53

[3] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. The advance rates for grades in "47 length" shall be the same as those for such grades in "46 length".

Grade	Length		
	46	45	44
C1L	77	77	76
C2L	75	75	74
C3L	71	71	70
C4L	66	66	65
C5L	57	57	55
C1F	77	77	76
C2F	73	73	72
C3F	70	70	68
C4F	66	66	65
C5F	59	59	57
C1R	75	75	74
C2R	72	72	71
C3R	67	67	65
C4R	61	61	60
C5R	54	54	53
C3M	64	64	63
C4M	57	57	56
C5M	53	53	52
C3G	65	65	63
C4G	58	58	52
C5G	53	53	57

Grade		Grade	
T3F	58	X4F	63
T4F	54	X5F	59
T5F	47	X1R	70
T3R	58	X2R	67
T4R	54	X3R	62
T5R	47	X4R	57
T3D	58	X5R	54
T4D	54	X3D	63
T5D	47	X4D	57
T3M	57	X5D	54
T4M	52	X3M	60
T5M	45	X4M	56
T3G	56	X5M	52
T4G	52	X3G	58
T5G	45	X4G	54
X1L	70	X5G	47
X2L	68	N1L	53
X3L	66	N2L	45
X4L	64	N1R	45
X5L	59	N2R	42
X1F	70	N1G	43
X2F	68	N2G	40
X3F	64		

§ 1464.20 1975-Crop Virginia Sun-Cured Tobacco, Type 37—Grade Loan Schedule.[4]

Loan rate

[Dollars per hundred pounds, farm sales weight]

Grade	Length		
	46	45	44
A1F	82	82	8
A2F	78	78	75
A3F	75	75	72
A1R	82	82	79
A2R	78	78	75
A3R	75	75	72
B1F	79	80	74
B2F	76	79	76
B3F	68	71	69
B4F	62	66	64
B5F	58	58	58
B1R	79	80	73
B2R	76	78	73
B3R	70	73	70
B4R	63	66	63
B5R	58	59	56
B1D	78	78	73
B2D	77	77	72
B3D	67	67	66
B4D	61	62	61
B5D	56	58	56
B3M	61	63	60
B4M	59	62	59
B5M	54	57	56
B3G	60	64	61
B4G	57	60	59
B5G	56	56	54
C1L	77	78	70

[4] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

Grade	Length		
	46	45	44
C2L	71	72	67
C3L	69	70	67
C4L	61	64	62
C5L	56	57	55
C1F	78	78	71
C2F	72	73	70
C3F	70	72	70
C4F	64	68	65
C5F	56	60	59
C1R	75	75	69
C2R	69	69	65
C3R	62	63	61
C4R	57	59	57
C5R	50	51	50
C3M	56	59	58
C4M	53	57	54
C5M	50	54	52
C3G	51	54	51
C4G	49	53	51
C5G	44	46	45

Grade	Advance rate	Grade	rate
T3F	57	X4F	57
T4F	55	X5F	53
T5F	49	X1R	64
T3R	57	X2R	61
T4R	55	X3R	57
T5R	50	X4R	55
T3D	55	X5R	48
T4D	53	X3D	51
T5D	47	X4D	49
T3M	54	X5D	43
T4M	52	X3M	60
T5M	46	X4M	56
T3G	57	X5M	54
T4G	55	X3G	53
T5G	49	X4G	49
X1L	65	X5G	56
X2L	63	N1R	40
X3L	60	N2R	32
X4L	58	N1G	42
X5L	53	N2G	29
X1F	64	N1L	38
X2F	63	N2L	30
X3F	60		

[FR Doc.75-30795 Filed 11-13-75;8:45 am]

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

1975 Crop—Burley Tobacco, Loan Rate Schedule

On September 8, 1975, there was published in the FEDERAL REGISTER (40 FR 41530) a notice of proposed rulemaking setting forth the proposed price support grade loan rates for 1975 burley tobacco. Interested parties were given the opportunity to submit, not later than October 6, 1975, data, views and recommendations pertaining to the grade loan rates.

Three responses were received pursuant to the notice. One recommended the adoption of the loan rate schedule as proposed. Another questioned whether adequate consideration had been given to tailoring the loan rates to reduce incentive to import burley tobacco. The respondent urged that if such consideration had not been given, the rates for the grades which are least threatened by imports be increased with offsetting reductions of the rates for the grades most threatened. The incentive to import burley tobacco is created by the overall market prices which have resulted from factors other than loan rates which have been applied to each grade. The 1974 market prices for burley tobacco averaged about $1.14 per pound (the level of support was 85.8 cents per pound) with the average prices for grades which normally account for more than 99 percent of the production each exceeding the highest loan rate proposed for any grade of the 1975 crop. The proposed grade loan rates range from $0.71 to $1.03 per pound and are increased from last year by 5 to 12 cents per pound. The higher increases are generally applied to the grades for which the 1974 market prices exceeded the 1974 loan rates by the greatest amounts and of which the smallest proportions of the marketings were received for price support. It is not believed that any different application of the increases

would more effectively reduce the incentive to import burley tobacco.

The third response related to whether there is legislative authority for authorizing cooperatives through which price support is made available to deduct $1 per hundred pounds of loan tobacco to apply against the cooperatives' overhead costs primarily related to the handling and marketing of tobacco. The respondent contended that there is ample authority for CCC to assume all of the cooperatives' overhead costs. There is, however, no statute which requires that any part of a cooperative's overhead cost be assumed by CCC. In the case of other commodities, such handling and marketing costs are borne by the producers individually or by their associations. Tobacco cooperative associations are the only associations, except those for peanuts and naval stores, in which CCC makes loans against a portion of the association's overhead price support expenses. And for peanuts and tobacco, CCC makes association loans to cover most of such expenses, but does not make advances to growers for marketing costs. The proposed loan rates are hereby adopted without change and are set forth below. The material previously appearing under § 1464.21 remains applicable to the crop to which it refers.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c); secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1445, 1421, 1423)).

Effective date: November 14, 1975.

Signed at Washington, D.C. on: November 11, 1975.

E. J. PERSON,
Acting Executive Vice President,
Commodity Credit Corporation.

§ 1464.21 1975 Crop—Burley Tobacco, type 31, loan schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Loan rate	Grade	Loan rate
B1F	103	T4VF	92
B2F	102	T5VF	87
B3F	101	T4VR	86
B4F	99	T5VR	81
B5F	97	T4GF	85
B1FR	102	T5GF	82
B2FR	101	T4GR	80
B3FR	100	T5GR	77
B4FR	98	C1L	103
B5FR	96	C2L	102
B1R	100	C3L	101
B2R	99	C4L	99
B3R	98	C5L	97
B4R	96	M3FR	93
B5R	92	M4FR	90
B4D	86	M5FR	86
B5D	82	N1L	92
B3K	96	N2L	87
B4K	94	C1F	103
B5K	89	C2F	102
B3M	96	C3F	101
B4M	94	C4F	99
B5M	88	C5F	97
B3VF	100	C3K	97
B4VF	96	C4K	95
B5VF	93	C5K	91
B3VR	93	C3M	97
B4VR	91	C4M	95
B5VR	88	C5M	91
B3GF	94	C3V	98
B4GF	92	C4V	96
B5GF	89	C5V	92
M1F	96	C4G	86
M2F	95	C5G	82
M3F	94	X1L	103
M4F	92	X2L	102
M5F	86	X3L	101
B3GR	85	X4L	99
B4GR	83	X5L	97
B5GR	80	X1F	103
T3F	98	X2F	102
T4F	94	X3F	101
T5F	91	X4F	99
T3FR	95	X5F	97
T4FR	93	X4M	95
T5FR	90	X5M	89
T3R	91	X4G	89
T4R	85	X5G	83
T5R	84	N1F	87
T4D	83	N1R	82
T5D	80	N2R	77
T4K	82	N1G	79
T5K	80	N2G	71

[1] Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "W" (wet), "No-G" (no grade), or scrap will not be accepted. Cooperatives are authorized to deduct $1 per hundred pounds to apply against overhead costs.

[FR Doc.75-30773 Filed 11-13-75;8:45 am]

Title 9—Animal and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS: ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

● Purpose. To provide two new Standard Requirements for biological products. ●

On August 4, 1975, a notice of proposed amendments to Part 113 was published in the FEDERAL REGISTER at 40 FR 32754.

The Master Seed Virus concept of testing viral vaccines for potency has been applied to such vaccines as rapidly as the procedures have been developed. This concept employs the use of a proven Master Seed Virus in the preparation of a vaccine and subsequent serial to serial evaluation for potency limited to virus titrations. This procedure eliminates the need for testing each serial for potency in expensive test animals.

These amendments change the requirements in § 113.137 to the Master Seed Virus testing procedure for Distemper Vaccine—Mink and add a new section to Part 113 to provide a similar test procedure for Measles vaccine used in dogs.

Comments were received from two licensees. Some suggested changes were considered very good and have been accepted.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice of rulemaking, and the constructive and helpful suggestions received from the comments, revisions of the material proposed were made for clarification of the procedures to be followed.

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (U.S.C. 151-158), the amendments of Part 113, Subchapter E, Chapter 1, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice are hereby adopted and are set forth herein subject to the following noted modifications:

The use of ferrets as alternate test animals is authorized in § 113.137(b)(1).

The requirements prescribed in § 113.37 are relaxed for testing distemper virus in § 113.137(b)(2).

The use of more than 20 vaccinates and 5 controls are authorized in § 113.137(c)(1) and (2). Also, the use of other means to insure susceptibility of these test animals is authorized. Reaction requirements for the test animals are changed to percentages to conform with the increased number of test animals.

§ 113.167(d)(1) has been revised to eliminate repetition.

§ 113.167 has been renumbered § 113.148.

Each word in the headings for § 113.137 and § 113.148 are to be capitalized.

1. § 113.137 is revised to read as follows:

§ 113.137 Distemper Vaccine—Mink.

Distemper Vaccine—Mink shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) The lot of Master Seed Virus shall be tested for extraneous viruses as follows:

(1) To detect virulent canine distemper virus, each of two distemper susceptible mink or ferrets shall be inoculated with 1 ml of the Master Seed Virus and observed each day for 21 days. If undesirable reactions occur in either test animal, the lot of Master Seed Virus is unsatisfactory.

(2) Master Seed Virus propagated in chicken embryos shall be tested for pathogens by the chicken embryo test prescribed in § 113.37 except lesions typical of distemper virus may be disregarded. If found unsatisfactory, the Master Seed Virus shall not be used.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) At least 25 distemper susceptible mink shall be used as test animals. Blood samples shall be drawn from these animals and individual serum samples tested. The mink shall be considered susceptible if the results are negative at a 1:2 final serum dilution in a varying serum-constant virus neutralization test with less than 500 ID_{50} of canine distemper virus. Other means of insuring susceptibility may be used if prior approval from Veterinary Services is received.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. At least 20 mink shall be vaccinated with a predetermined quantity of vaccine virus and at least 5 additional mink shall be held as unvaccinated controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(3) At least twenty-one days postinjection, the immunity of each of the vaccinates and the controls shall be challenged with the same size dose of virulent distemper virus and observed each day for 21 days.

(i) If at least 80 percent of the controls do not die or show severe signs of distemper, the test is inconclusive and may be repeated.

(ii) If at least 19 of 20, 27 of 30, or 36 of 40 of the vaccinates do not survive without showing clinical signs of distemper during the observation period, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest; *Provided*, That, five of five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be authorized by Veterinary Services.

(d) Test requirements for release: Each serial and subserial shall meet the general requirements prescribed in § 113.135 and the requirements in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Mink safety test.* Each of 2 mink shall be vaccinated with the equivalent of 10 doses of vaccine rehydrated with sterile diluent and administered in the manner recommended on the label. The mink shall be observed each day for 21 days. If unfavorable reactions attributable to the product occur in either of the mink during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided*, That if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

(2) *Potency Test.* An in vitro potency test shall be conducted. To be eligible for release, each serial and subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that, when tested at any time within the expiration period, each serial and subserial shall have a virus titer $10^{0.7}$ greater than that used in such immunogenicity test when tested by the method used in paragraph (c)(2) of this section.

2. Part 113 is amended by the addition of a new § 113.148 to read as follows:

§ 113.148 Measles Vaccine.

Measles Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) The lot of Master Seed Virus shall be tested for other viral agents as follows:

(1) To detect virulent canine distemper virus, each of two canine distemper susceptible ferrets shall be injected with a sample of the Master Seed Virus equivalent to the amount of virus to be used in one dog dose and observed each day for 21 days. If undesirable reactions occur in either ferret, the lot of Master Seed Virus is unsatisfactory.

(2) To detect infectious canine hepatitis virus, each of two infectious canine hepatitis susceptible dogs or foxes shall be injected with 0.05 ml of the Master Seed Virus into the anterior chamber of one eye and examined each day for 14 days for corneal opacity. If the eyes do not remain clear, the Master Seed Virus is unsatisfactory.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Twenty-five dogs, less than 12 weeks of age and free of measles antibody, shall be used as test animals (20 vaccinates and five controls). Blood samples shall be drawn from these animals and individual serum samples tested. The dogs shall be considered susceptible if the results are negative at a 1:2 final serum dilution in a varying serum-constant virus neutralization test with less than 500 ID_{50} of measles virus.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. Twenty dogs shall be vaccinated with a predetermined quantity of vaccine virus and the remaining five dogs held as unvaccinated controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(3) On the day of challenge, serum samples shall be obtained from each vaccinate and individually tested for antibody against canine distemper virus. For a valid test, each vaccinate shall be negative at a 1:4 final serum dilution in varying serum-constant virus neutralization test using less than 500 ID_{50} of canine distemper virus.

(4) At least 21 days postinoculation, the immunity of the vaccinates and controls shall be challenged by exposure to a uniform dose of aerosolized virulent canine distemper virus. All test dogs shall be observed daily for 21 days postchallenge.

(i) If at least 4 of the 5 controls do not die or show signs of distemper, including a temperature of 104.0° F or higher and at least 15 percent weight loss, the test is inconclusive and may be repeated.

(ii) If at least 19 of the 20 vaccinates do not survive without showing a temperature of 104.0° F or higher and a weight loss exceeding 15 percent after day 8 postchallenge, the Master Seed Virus is unsatisfactory.

(5) When approved in advance by Veterinary Services, a sequential test procedure may be used in lieu of the 20 dog requirement. A beta value of 0.05 and a tolerance level of 0.78 shall be required.

(6) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest; *Provided*, That, five of five vaccinates and at least four of the controls shall meet the criteria prescribed in this section.

(7) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) Test requirements for release: Each serial and subserial shall meet the general requirements prescribed in § 113.135 and the requirements in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety tests.* The dog safety test prescribed in § 113.40 and the mouse safety test prescribed in § 113.33(a) shall be conducted.

(2) *Potency test.* An in vitro potency test shall be conducted. To be eligible for release, each serial and subserial shall have a virus titer sufficiently greater than the titer of the vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that, when tested at any time within the expiration period, each serial and subserial shall have a vrus titer $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{4.3}$ ID_{50} per dose when tested by the method used in paragraph (c)(2) of this section.

§ 113.149–§ 113.159 [Reserved]

3. Sections 113.149 through 113.159 are reserved.

(37 Stat. 832-833; 21 U.S.C. 151-158)

Effective date: These amendments take effect December 15, 1975, except the Master Seed Virus requirements shall take effect January 1, 1977.

Done at Washington, D.C., this 10th day of November 1975.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-30790 Filed 11-13-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-NW-37-AD; Amendment 39-2425]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 707 and 720 Series Airplanes

There have been 3 reports of cracks in the horizontal stabilizer center section

rear spar upper chord terminal lugs on the Boeing Model 707-300B and -300C series airplanes that affect the structural capability of the horizontal stabilizer. Since this condition is likely to exist or develop in other Boeing Model 707 and 720 series airplanes of the same type design, an airworthiness directive is being issued to require inspections and repair if necessary of the horizontal stabilizer center section rear spar upper chord assembly.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), Section 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BOEING: Applies to all 707 and 720 series airplanes certificated in all categories which (1) were delivered after January 28, 1966, including Serial Numbers 18955 and 18979, with more than 12,000 hours time in service on the horizontal stabilizer center section rear spar upper chord assembly or (2) were modified by Boeing Service Bulletin No. 2243, Revisions 1 through 7, with more than 12,000 hours time in service since modified or (3) had the bushings removed for lug bore inspection and corrosion removal, with 12,000 hours or more time in service since the last flanged bushings were installed. Compliance required as indicated.

A. Within 100 hours time in service after the effective date of this AD, unless inspected within the last 125 hours time in service, and every 225 hours thereafter, visually inspect the horizontal stabilizer center section upper rear spar for cracks in the outer surface of the right and left hand terminal lugs. The cracks initiate in the bushed holes at the terminal fittings.

If cracks are found, replace the horizontal stabilizer center section rear spar upper chord assembly or repair prior to further flight in accordance with B or C below.

B. Install a strap in accordance with Boeing Drawing No. 65C15785. This strap must be replaced in accordance with Boeing Drawing No. 65C15785 after 3,000 hours time in service.

C. Modify in accordance with Boeing Service Bulletin No. 3243 or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Such modification constitutes terminating action for this airworthiness directive.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 24, 1975.

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

NOTE: The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Washington, November 7, 1975.

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

[FR Doc.75-30688 Filed 11-13-75;8:45 am]

[Docket No. 75-NW-27-AD; Amendment 39-2426]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations, Amendment 39-2371, AD 75-20-05, to require replacement of the fore flap airload roller and fore flap fittings and to specify the lubricant to be used on Boeing Model 747 series airplanes was published in 40 F.R. 44335.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Comments were received from the operators and the manufacturer. The operators, through the ATA, offered the following comments: They requested an extension of time to December 31, 1977, for replacement of the airload rollers and fore flap fittings. The replacement roller, they stated, could be either the new design bearings or overhauled bearings of the old design. The agency does not concur with the request to extend the accomplishment date to December 1977. However, the agency agrees that while under the inspection requirements of this AD, some relaxation of the accomplishment date would not compromise safety. Accordingly, the accomplishment date has been extended to December 31, 1976. The FAA agrees that overhauled bearings are suitable replacement rollers. The operators requested deletion of paragraph E2 of the proposed amendment since it is redundant. The agency has found the larger inspection holes provided by Boeing Service Bulletin No. 747-57-2138 are necessary to properly inspect the rollers. They requested the AD provide for an equivalent to MIL-G-23827 for use in the airload rollers. The amendment does provide for an equivalent lubricant. The commentators also requested that replacement of rollers and fittings on the outboard fore flaps and the aft airload rollers on the inboard fore flaps constitute terminating action for the inspections required by the AD. Since the forward airload rollers on the inboard fore flap are the critical rollers, the agency concurs with this request. The operators also requested that the AD delete from applicability those airplanes delivered in a configuration equivalent to that provided by this AD. The AD has this provision. One operator requested that paragraph A2 allow operation with certain cracks in the fittings. Paragraph A2 has been amended to allow continued operation with parts cracked within certain limits.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations, Amendment 39-2371, AD 75-20-05, is amended as follows:

1. Revise the last sentence of paragraph A2 to read as follows:

Replace any cracked fittings before further flight if any crack exceeds the limits listed in Boeing Service Bulletin Nos. 747-57-2088 or 747-57-2119.

2. Delete paragraph C and add a new paragraph C as follows:

C. 1. Replace the three forward inboard fore flap airload rollers with new or overhauled rollers on or before December 31, 1976. The replacement rollers are to be lubricated with MIL-G-23827 grease, or an equivalent grease approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, which does not contain molybdenum disulfide (MoS_2) as an additive. Airplanes delivered with the redesigned rollers which have been lubricated at an internal not greater than that allowed by this AD, need not have these bearings replaced.

2. Replace all inboard trailing edge fore flap attach fittings on or before December 31, 1976, in accordance with Boeing Service Bulletin No. 747-57-2119, Revision 2, and Boeing Service Bulletin No. 747-57-2088, Revision 2, or later FAA approved revisions, or replace fittings in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

3. Add a new paragraph E as follows:

E. Within the next 100 flights, unless already accomplished, cut inspection holes in the mid-flaps in accordance with Boeing Service Bulletin No. 747-57-2138.

4. Add a new paragraph F as follows:

F. Replacement of the remaining inboard fore flap airload rollers and all outboard fore flap airload rollers with new or overhauled rollers lubricated with MIL-G-23827 or equivalent constitutes terminating action for the inspections required by paragraph A1. Replacement of both the inboard and outboard fore flap attach fittings constitutes terminating action for the inspections required by paragraphs A2 and A3.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 12, 1975.

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

Issued in Seattle, Washington, November 7, 1975.

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

NOTE: The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1067.

[FR Doc.75-30689 Filed 11-13-75;8:45 am]

[Docket No. 15143; Amdt. 39-2428]

PART 39—AIRWORTHINESS DIRECTIVES

Britten Norman Ltd. BN-2A and BN-2A Mk III Airplanes

There have been reports of cracks in the rudder bar unit on Britten Norman Ltd. BN-2A and BN-2 Mark III airplanes that could result in loss of rudder control. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection and replacement, if necessary, of the rudder bar unit on Britten Norman Ltd. BN-2A and BN-2A Mark III airplanes.

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

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRITTEN NORMAN LTD. Applies to BN-2A (Islander) and BN-2A Mark III (Trislander) airplanes, all series, certificated in all categories, except those modified in accordance with Britten Norman Mod. No. NB/M/463, provided the Modification was accomplished prior to the accumulation of 100 landings on the rudder bar unit.

Compliance is required within the next 25 landings after the effective date of this AD unless already accomplished within the last 475 landings, and thereafter at intervals not to exceed 500 landings from the last inspection.

To detect fatigue cracks and prevent possible failure of rudder bar units, accomplish the following:

(a) Inspect the rudder bar unit for cracks in accordance with Britten Norman Service Bulletin No. BN-2/SB 56 dated October 10, 1973, paragraph Nos. 1, 2, 3 and 4, or an FAA-approved equivalent.

(b) If, during an inspection required by paragraph (a) of this AD, a crack is found in either the slider tube or vertical pillar of the rudder bar unit, before further flight, replace the slider tube and pillar assembly with a serviceable assembly of the same part number, or an FAA-approved equivalent.

(c) If, during an inspection required by paragraph (a) of this AD, a crack is found in the rudder pedal beam of the rudder bar unit, before further flight, replace the rudder pedal beam—

(1) For BN-2A (Islander) and BN-2A Mk III (Trislander) airplanes, with a serviceable beam, P/N NB-45-C-2153 or FAA-approved equivalent; or

(2) For BN-2A (Islander) airplanes, with a servicable beam, P/N NB-45-B-071 that has been modified in accordance with Britten Norman Service Bulletin No. BN-2/SB.20 dated June 12, 1969, or an FAA-approved equivalent.

(d) For the purpose of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from take-off to landing for the airplane type.

This amendment becomes effective November 28, 1975.

Issued in Washington, D.C. on November 6, 1975.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.75-30687 Filed 11-13-75;8:45 am]

[Docket No. 14909; Amdt. 39-2430]

PART 39—AIRWORTHINESS DIRECTIVES

Caproni Vizzola Costruzioni Aeronautiche Calif A-21 Series Gliders

Amendment 39-2340 (40 FR 33819), AD 75-18-02, imposes an airspeed operating limitation and requires repetitive inspections of the aileron system on certain Caproni Vizzola Costruzioni Aeronautiche Calif A-21 gliders. After issuing Amendment 39-2340 the FAA has determined that the reasons for issuing the AD are equally applicable to Calif A-21 series gliders, having serial numbers subsequent to 215. Therefore the AD is being amended to apply to those Calif A-21 series gliders. The AD is also being amended to reference an updated service bulletin.

Since this situation requires immediate adoption of this regulation, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2340 (40 FR 33819), AD 75-18-02, is amended as follows:

1. By revising the applicability paragraph to read—

"CAPRONI VIZZOLA COSTRUZIONI AERONAUTICHE S.p.A. Applies to Caproni Calif A-21 series gliders, serial numbers 201, 202, 204 and subsequent, certificated in all categories."

2. By revising the parenthetical expression following paragraph (b) to read—

"(CAPRONI VIZZOLA COSTRUZIONI AERONAUTICHE S.p.A. Mandatory Technical Service Bulletin T.B. No. 75.05 R.A.I. dated July 29, 1975, refers in part to this subject.)"

This amendment becomes effective November 28, 1975.

Issued in Washington, D.C. on November 10, 1975.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.75-30690 Filed 11-13-75;8:45 am]

[Docket No. 15144; Amdt. 39-2427]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation Limited Model DH-104 "Dove" Airplanes

Supplement 2 to Part 507 of the Regulations of the Administrator of Civil Aeronautics (22 FR 6046; August 1, 1957) contained AD 57-5-2 that required inspection of the upper and lower wing main spar joints of certain deHavilland DH-104 "Dove" airplanes for cracks and their repair if necessary. Airworthiness directives that were published in Supplement 2 to Part 507 were amendments to § 507.10(a). All airworthiness directives contained in § 507.10 were transferred to § 39.13 of the Federal Aviation Regulations upon the adoption of Part 39 (29 FR 14403; October 20, 1964). After issuing AD 57-5-2, the FAA has received reports of cracks developing in joints that were found to have had no cracks during previous AD inspections. Therefore AD 57-5-2 is being superseded by a new AD that requires another X-ray inspection of DH-104 "Dove" airplanes for cracks and their repair if necessary.

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

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION LIMITED. Applies to Hawker Siddeley DH-104 "Dove" airplanes, Serial Numbers 04465 and below certificated in all categories, except those that incorporate "Dove" Modification 870.

Compliance is required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

To detect spanwise cracks in the upper and lower wing main spar joint, accomplish the following:

(a) Inspect the upper and lower wing main spar joints for cracks in accordance with the X-ray technique specified in Appendix I, Issue 2 as amended June 16, 1975, of Hawker Siddeley Technical News Sheet (T.N.S.) No. 134, Issue 5, dated March 17, 1975, or an FAA-approved equivalent.

(b) If, during the inspection required by paragraph (a) of this AD, a crack is found in a wing main spar joint, before further flight modify the joint in accordance with Appendix 2 of Hawker Siddeley Technical News Sheet (T.N.S.) No. 134, Issue 5, dated March 17, 1975, or an FAA-approved equivalent.

This supersedes AD 57-5-2 that was contained in Supplement 2 to Part 507 of the Regulation of the Administrator (22 FR 6046) and that was transferred to § 39.13 of the Federal Aviation Regulations upon the adoption of Part 39 (29 FR 14403).

NOTE: Copies of X-rays or of the results of the equivalent inspections as required by paragraph (a) of this AD are requested to be transmitted to DOT/FAA, Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York, N.Y. 09667.

(Reporting approved by the Bureau of the Budget under B.O.B. No. 04-R0174).

This amendment becomes effective November 28, 1975.

Issued in Washington, D.C., on November 6, 1975.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.75-30686 Filed 11-13-75;8:45 am]

[Docket No. 15142; Amdt. No. 994]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

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

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

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

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

1. Section 97.23 is amended by originating, amending, or cancelling the following VOR-VOR/DME SIAPs, *effective December 25, 1975.*

Manchester, NH—Grenier Field-Manchester Municipal Arpt., VOR/DME Rwy 17, Amdt. 7.
Manchester, NH—Grenier Field-Manchester Municipal Arpt. VOR Rwy 35, Amdt. 9.
Morgantown, WV—Morgantown Municipal-Walter L. Bill Hart Field, VOR-A, Amdt. 7.
Morgantown, WV—Morgantown Municipal-Walter L. Bill Hart Field, VOR/DME Rwy 18, Amdt. 3, Canceled.
Morgantown, WV—Morgantown Municipal-Walter L. Bill Hart Field, VORTAC Rwy 18, Orig.

* * * *effective December 4, 1975:*

Hayden, CO—Yampa Valley Arpt., VOR Rwy 10, Orig.

* * * *effective November 27, 1975:*

Cincinnati, OH—Blue Ash Arpt., VOR Rwy 6, Amdt. 1.
Cincinnati, OH—Blue Ash Arpt., VOR Rwy 24, Amdt. 1.

* * * *effective November 4, 1975:*

Lapeer, MI—Dupont-Lapeer Arpt., VOR-A, Amdt. 6.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, *effective November 20, 1975.*

Batesville, AR—Batesville Regional Arpt., SDF Rwy 7, Orig.
Spokane, WA—Spokane Int'l Arpt., LOC Rwy 3, Orig.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective December 25, 1975.*

Manchester, NH—Grenier Field-Manchester Municipal Arpt., NDB Rwy 35, Amdt. 8.
Morgantown, WV—Morgantown Municipal-Walter L. Bill Hart Field, NDB Rwy 18, Amdt. 10.

* * * *effective November 20, 1975:*

Batesville, AR—Batesville Regional Arpt., NDB Rwy 7, Orig.
Batesville, AR—Batesville Regional Arpt., NDB(ADF)-1, Amdt. 4, Canceled.

* * * *effective October 31, 1975:*

Fresno, CA—Fresno Air Terminal, NDB Rwy 29R, Amdt. 18.
Grand Rapids, MI—Kent County Arpt., NDB Rwy 26L, Amdt. 8.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, *effective December 25, 1975:*

Manchester, NH—Grenier Field-Manchester Municipal Arpt., ILS Rwy 35, Amdt. 7.
Morgantown, WV—Morgantown Municipal-Walter L. Bill Hart Field, ILS Rwy 18, Amdt. 3.
Williamsport, PA—Williamsport-Lycoming County Arpt., ILS Rwy 27, Amdt. 9.

* * * *effective November 27, 1975:*

Norfolk, VA—Norfolk Regional Arpt., ILS Rwy 23, Amdt. 1.

* * * *effective November 20, 1975:*

Richmond, VA—Richard Evelyn Byrd Int'l Arpt., ILS Rwy 33, Amdt. 3.
Columbia, S.C.—Columbia Metropolitan Arpt., ILS Rwy 29, Orig.

* * * *effective October 31, 1975:*

Fresno, CA—Fresno Air Terminal Arpt., ILS Rwy 29R, Amdt. 23.
Grand Rapids, MI—Kent County Arpt., ILS Rwy 26L, Amdt. 9.

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

Issued in Washington, D.C., on November 6, 1975.

JAMES M. VINES,
Chief, Aircraft Programs Division.

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

[FR Doc.75-30691 Filed 11-13-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8949o]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Travel King, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.135 Nature of product or service; § 13.143 Opportunities; § 13.170 Qualities or properties of product or service; 13.170-22 Corrective, orthopedic, etc.; 13.170-52 Medicinal, therapeutic, healthful, etc.; § 13.195 Safety; § 13.205 Scientific or other relevant facts. Subpart—Aiding, assisting and abetting unfair or unlawful act or practice: § 13.290 Aiding, assisting and abetting unfair or unlawful act or practice. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures. Subpart—Misrepresenting oneself and goods—Goods: § 13.1685 Nature; § 13.1697 Opportunities in product or service; § 13.1740 Scientific or other relevant facts. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Travel King, Inc., doing business as Travel King, Inc. & Ramble Tours; Phil-Am Travel Agency, Inc.; Gem Travel Service, Inc.; and Ramble Travel and Tours, Inc., corporations; Yuda Galazan and Nyla Ford, individually and as officers and directors of Ramble Travel and Tours, Inc.; Ronald Brown, individually and as an officer of Travel King, Inc.; Adeline C. Heredia and Emile H. Heredia, individually and as officers of Phil-Am Travel Agency, Inc.; and Laurence C. Marquez and Marian E. Butterfield, individually and as officers of Gem Travel Service, Inc.

Consent order requiring four West Coast travel agencies located in Seattle, Wash., and San Francisco, Calif., among other things to cease making false claims about "psychic surgery" and promoting tours for such surgery, which has been misrepresented as an actual surgical operation by which diseased tissue or disease-causing material is removed from the body using only the bare hands. The order further requires respondents to send notices to past purchasers and to those who inquire about such tours in the future warning them of the serious danger involved.

The final order, including further order requiring report of compliance therewith, is as follows: [1]

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondents Gem Travel Service, Inc., Laurence C. Marquez and Marian E. Butterfield from the administrative law judge's initial decision, and upon briefs and oral argument in support thereof and in opposition thereto; and the Commission having rendered its decision denying the appeal and adopting the initial decision:

It is ordered, That respondents, Travel King, Inc., Phil-Am Travel Agency, Inc., Gem Travel Service, Inc., Ramble Travel and Tours, Inc., Yuda Galazan, Nyla Ford, Ronald Brown, Adeline C. Heredia, Emile H. Heredia, Laurence C. Marquez, and Marian E. Butterfield shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

The order to cease and desist as contained in the Initial Decision is as follows:

ORDER

It is ordered That respondents Travel King, Inc., doing business as Travel King, Inc. & Ramble Tours; Phil-Am Travel Agency, Inc.; Gem Travel Service, Inc.; and Ramble Travel and Tours, Inc., corporations; Yuda Galazan and Nyla Ford, individually and as officers and directors of Ramble Travel and Tours, Inc.; Ronald Brown, individually and as an officer of Travel King, Inc.; Adeline C. Heredia and Emile H. Heredia, individually and as officers of Phil-Am Travel Agency, Inc.; Laurence C. Marquez and Marian E. Butterfield, individually and as officers of Gem Travel Service, Inc.; and their successors and assigns, and their agents, representatives and employees, acting directly or through any corporate or other device, or through any other person or firm, in connection with the advertising, offering for sale, sale, or provision of travel arrangements or of any form of treatment for disease or disorder, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, in the promotion of travel or tours to the Philippines, or elsewhere, that "psychic surgery" [2] is an actual surgical operation, that the body is opened, and that diseased tissue or disease-causing material is removed from the human body.

2. Representing, directly or by implication, in the promotion of travel or tours to the Philippines, or elsewhere, that "psychic surgeons" [3] in the Philippines, or elsewhere, have the ability or power to open the body with the bare hands, and to remove diseased tissue or disease-causing material.

3. Advertising or promoting, directly or indirectly, "psychic surgery", or travel or tours to the Philippines, or elsewhere, for "psychic surgery", or for visits to "psychic surgeons", or to any person claiming to be, or known by the respondent involved to be, a "psychic surgeon".

4. Using the terms "psychic surgery" or "psychic surgeon" in the promotion of travel or tours to the Philippines, or elsewhere, or any other term, description or symbol which suggests, directly or by implication, the opening of the body, the performing of any kind of surgery, or the removing of any tissue or material, with bare hands without instruments.

5. Offering for sale or selling "psychic surgery" or arranging or facilitating treatments by any "psychic surgeon".

6. Representing, directly or by implication, in connection with the promotion, sale, arrangement or scheduling of travel or tours, that during or at the end of such travel or tours arrangements will be made for visits with any "psychic surgeon", or that any "psychic surgeon" will be available for visits.

7. Making any representation, directly or by implication, as to the validity, efficacy or safety of any form of treatment for disease or disorder without possessing, at the time the representation is made, a reasonable basis therefor.

8. Providing or arranging for the provision of any form of compensation, reimbursement, gratuity, or benefit, including free or reduced rate travel or accommodations to anyone known by the respondent involved, or who should have been known by the respondent involved with reasonable inquiry, to have engaged in the use of any of the representations or promotions prohibited by this order.

It is further ordered that respondents shall:

(a) Deliver promptly to all persons who request information concerning "psychic surgery" or travel or tour arrangements to visit "psychic surgeons", or who have taken a "psychic surgery" tour of a respondent herein, a copy of the notice contained in Attachment A. [Where such inquiries are by telephone, the notice need only be sent if the inquiring person requests a written response or if a respondent sends written materials to the inquiring person.]

(b) Distribute a copy of this order to each of their employees and to all persons who are or have been tour conductors on respondents' "psychic surgery" tours.

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

Initial Decision order, issued Feb. 28, 1975.

The Final Order was issued by the Commission September 30, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-30682 Filed 11-13-75;8:45 am]

[1] Copies of the Amended Complaint, Administrative Law Judge's Order Granting Complaint Counsel's Motion to "Correct Clerical Error In Amended Complaint", Initial Decision, Attachment A, Opinion of the Commission by Commissioner Hanford, and Final Order filed with the original document.

[2] Whenever used in this order the term "psychic surgery" includes the terms "psychic healing", "faith healing", and "spiritual" or "spirit healing", and equivalent terms, when those terms refer to or contemplate, a "treatment" or "healing procedure or technique which purports to involve the opening of the body with the bare hands, and the removal of diseased tissue or disease-causing material.

[3] Whenever used in this order the term "psychic surgeon" includes the terms "psychic healer", "faith healer", and "spiritual" or "spirit healer", and equivalent terms, when those terms refer to a "healer" or person who purports to open the body with the bare hands, and to remove diseased tissue or disease-causing material.

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

[Docket No. 8872]

Ger-Ro-Mar, Inc. t/a Symbra'ette, et al.

Codification under 16 CFR 13 appears at 39 FR 35133.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Ger-Ro-Mar, Inc., a corporation, d/b/a Symbra'ette, and Carl G. Simonsen, individually and as President of Ger-Ro-Mar, Inc.

Order modifying an earlier order dated July 23, 1974, 84 F.T.C. ——, 39 FR 35133, pursuant to order of the United States Court of Appeals for the Second Circuit dated June 16, 1975, Trade Reg. Rep. ¶ 60,368 at 66,588 (1975 Trade Cases), IX S&D ——, by setting aside order paragraphs 1 and 2 proscribing an open-ended, multi-level (pyramid) marketing plan to recruit distributors for its products.

The order modifying order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondents having filed in the United States Court of Appeals for the Second Circuit on October 11, 1974, a petition to review and set aside an order to cease and desist issued herein on July 23, 1974, and the Court having rendered its decision and its judgment on June 16, 1975, affirming the order to cease and desist, except for numbered Paragraphs 1 and 2 of the order which it directed be set aside;

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court to read as follows:

ORDER

It is ordered, That respondent Ger-Ro-Mar, Inc., a corporation doing business as Symbra'ette, whose corporate name is now Symbra'ette, Inc., and officers there-

[1] Copies of the Order Modifying Order to Cease and Desist, filed with the original document.

of, and respondent Carl G. Simonsen, individually and as an officer of said corporation, or corporations, and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of brassieres, girdles, lingerie, wigs, or of any other products, or of distributorships or franchises, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Operating any marketing or sales plan or program unless respondents agree to and notify participants that they will promptly repurchase all or any part of any initial order of merchandise made by any participant, upon written request of the participant mailed within 30 days (or a greater period of time if respondents elect) of the receipt of the initial order by the participant, at the price actually paid by the participant for the merchandise: *Provided, however,* That respondents may insist that prior to making repurchase, the merchandise be returned to respondents' place of business, postage or shipping prepaid, in a resaleable condition, said merchandise to be shipped within 30 days (or a greater period of time if respondents elect) of the date on which written request for repurchase is received.

2. Representing, directly or by implication, or by use of hypothetical examples or representations of past earnings of participants, that participants in any marketing or sales program will earn or receive, or have the reasonable expectancy of earning or receiving, any stated gross or net amounts, unless in fact, a majority of participants in the community or geographic area in which such representations are made, have achieved the stated gross or net amounts represented, and the representations accurately reflect the amountof time required by such participants to achieve such gross or net amounts.

3. Misrepresenting in any manner, directly or by implication, or placing in the hands of others the means or instrumentalities for misrepresenting, the financial gains reasonably achievable by participants in any marketing or sales plan or program, or the commercial feasibility thereof.

4. Failing to maintain adequate records (a) which disclose the facts upon which any claims of the type discussed in paragraphs 2 and 3 of this Order are based; and (b) from which the validity of any claim of the type discussed in paragraphs 2 and 3 of this Order can be determined.

5. Requiring that an individual pay a valuable consideration in return for the right to participate in any marketing or sales program, without first disclosing to such prospective participant in writing the number of other participants in the marketing area in which such prospect plans to operate.

6. Representing that the supply of available participants in respondents' marketing program is inexhaustible or virtually inexhaustible.

7. Entering into, maintaining or enforcing any contract, agreement, combination, understanding, or course of conduct which has as its purpose or effect to require any individual to resell at any particular price a product which he or she has purchased: *Provided,* That in those states having Fair Trade laws products may be marketed pursuant to the provisions of such laws.

8. Publishing or distributing, directly or indirectly, any resale price list, product price list, order form, report form, promotional material or any other document which employs resale prices for commodities sold by respondents without stating clearly and conspicuously in conjunction therewith the following:

The resale prices quoted herein are suggested prices only.

Provided, That in those states having Fair Trade laws products may be marketed pursuant to the provisions of such laws.

9. Entering into, maintaining, or enforcing any contract, agreement, combination, understanding, or course of conduct which has as its purpose or effect to require any individual to refrain from reselling products which he or she has purchased, to any specified person, class of persons, business, or class of businesses.

It is further ordered, That respondents deliver a copy of this Order to all present and future dealers, distributors, or participants in any marketing or sales plan or program they operate, or who are engaged in the sale of respondents' products or services, and secure from each a signed statement acknowledging receipt of this Order.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, incorporation, or sale resulting in the emergence of a successor firm, partnership, or corporation, or any other change which may affect compliance obligations arising out of this Order.

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

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

The Order Modifying Order to Cease and Desist was issued by the Commission October 2, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-30716 Filed 11-13-75;8:45 am]

[Docket No. 89830]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Hollywood Carpets, Inc., Et. Al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages or connections; 13.15–195 Nature; § 13.20 Comparative data or merits; § 13.30 Composition of goods; 13.30–75 Textile Fiber Products Identification Act; § 13.73 Formal regulatory and statutory requirements; 13.73–90 Textile Fiber Products Identification Act; § 13.135 Nature of product or service; § 13.155 Prices; 13.155–15 Comparative; 13.155–40 Exaggerated as regular and customary; 13:155–70 Percentage savings; 13.155–80 Retail as cost, wholesale, discounted, etc.; 13.155–100 Usual as reduced, special, etc.; § 13.205 Scientific or other relevant facts; § 13.270 Trade-mark registration or use. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–40 Furnishing information to media; 13.533–45 Maintain records; 13.533–45(k) Records, in general. Subpart—Failing to maintain records: § 13.1051 Failing to maintain records; 13.1051–20 Adequate. Subpart—Invoicing products falsely; § 13.1108 Invoicing products falsely; 13.1108–80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 Composition; 13.1185–80 Textile Fiber Products Identification Act; § 13.1212 Formal regulatory and statutory requirements; 13.1212–80 Textile Fiber Products Identification Act. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1490 Nature.—Goods: § 13.1575 Comparative data or merits: § 13.1623 Formal regulatory and statutory requirements; 13.1623–80 Textile Fiber Products Identification Act; § 13.1740 Scientific or other relevant facts.—Prices: § 13.1785 Comparative; § 13.1805 Exaggerated as regular and customary; § 13.1820 Retail as cost, etc., or discounted; § 13.1825 Usual as reduced or to be increased. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1850 Content; § 13.1870 Nature; § 13.1895 Scientific or other relevant facts. Subpart—Using misleading name—Vendor: § 13.2425 Nature, in general.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70)

In the Matter of Hollywood Carpets, Inc., a corporation, and Charles Snyder, Florence H. Snyder and Dale E. Snyder, individually and as officers of said corporation.

Order requiring a Beltsville, Md., seller and distributor of carpeting and floor coverings, among other things to cease misrepresenting the word "sale", and the savings afforded purchasers of respondent's products; failing to maintain adequate records; and misusing the term "warehouse." Further, the order proscribes respondent's from violating the

Textile Fiber Products Identification Act by misbranding and falsely advertising its textile fiber products.

The Final Order, including further order requiring report of compliance therewith, is as follows.[1]

FINAL ORDER

This matter having been considered by the Commission upon the appeal of complaint counsel from the initial decision, and the Commission for the reasons stated in the accompanying Opinion, having granted the appeal in part:

It is ordered, That the following portions of the initial decision of the administrative law judge be, and they hereby are, adopted as the Findings of Fact and Conclusions of Law of the Commission: Pages 1–13 (except for Finding 15, sentence 1, page 13); page 14 (except for Findings 18 and 20); page 15 (except for Findings 22–23); pages 16–18 (except for Finding 27, page 16); pages 19–20; page 21, first sentence; page 22, Sec. "B"; pages 23–24 (except for last textural sentence, page 24); page 25, first two sentences, and Sec. "D"; page 26 (except for last two sentences); page 28, second full paragraph.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to cease and desist be, and it hereby is, entered:

ORDER

I. *It is ordered*, That respondents Hollywood Carpets, Inc., a corporation, its successors and assigns, and its officers, and Charles Snyder, Florence H. Snyder and Dale E. Snyder, individually, and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of carpeting and floor coverings, or any other article of merchandise, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Sale," or any other word or words of similar import or meaning not set forth specifically herein unless the price of such merchandise, being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

2. Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise or services have been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

3. Advertising or otherwise representing a compared value price for carpet remnants or rugs (a) unless the carpet remnants or rugs being advertised are of the same grade and quality as the carpets with which such advertised prices are compared; and (b) without disclosing in immediate conjunction therewith that the carpet remnants or rugs are usually sold for less than wall-to-wall prices, and that the compared value is based on the wall-to-wall price of carpeting of the same grade and quality (unless the compared value is in fact based on the price of remnants of the same grade and quality).

4. Representing, directly or by implication, orally or in writing, that purchasers of respondents' merchandise will save any stated dollar or percentage amount without fully and conspicuously disclosing, in immediate conjunction therewith, the basis for such savings representations.

5. Failing to maintain and produce for inspection or copying for a period of three (3) years, adequate records (a) which disclose the facts upon which any savings claims, sale claims and other similar representations as set forth in Paragraphs One, Two, and Four of this order are based, and (b) from which the validity of any savings claims, sale claims and similar representations can be determined.

6. Using the words "Warehouse Sale" or any combination of those words or other words of similar import and meaning that represent that respondents are conducting any business other than their regular retail business.

7. Using the word "warehouse" or any other word or words of similar import to describe respondents' physical facilities, without also disclosing clearly and conspicuously that the word "warehouse" or other word or words of similar import describe a facility at which respondents regularly engage in the retail sale of carpeting, *e.g.*, "Visit our warehouse-showroom facility."

8. Misrepresenting in any manner the size, description or classification of any of respondents' physical facilities.

II. *It is further ordered*, That respondents Hollywood Carpets, Inc., a corporation, its successors and assigns, and its officers, and Charles Snyder, Florence H. Snyder and Dale E. Snyder, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

1. Misbranding textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Falsely and deceptively advertising textile fiber products by:

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

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

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

(d) Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

It is further ordered, That respondents shall maintain for at least a one (1) year period, following the effective date of this order, copies of all advertisements, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other such promotional material utilized for the purpose of obtaining leads for the sale of carpeting or floor coverings, or utilized in the advertising, promotion or sale of carpeting or floor coverings and other merchandise.

It is further ordered, That respondents, for a period of one (1) year from the effective date of this order, shall provide each advertising agency utilized by respondents and each newspaper publishing company, television or radio station or other advertising media which is utilized by the respondents to obtain leads for the sale of carpeting or floor coverings and other merchandise, with a copy of this Order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change

[1] Copies of the Complaint, Initial Decision, Final Order and Opinion of the Commission by Commissioner Dixon, filed with the original document.

in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

It is further ordered, That respondents shall forthwith distribute a copy of this Order to each of their operating divisions.

It is further ordered, That respondents deliver a copy of this Order to all present and future personnel of respondents engaged in the sale, or the offering for sale, of any product, in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and secure a signed statement acknowledging receipt of said Order from each such person.

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

It is further ordered, That respondents shall, within sixty (60) days after the effective date of the Order served upon it, file with the Commission a report, in writing, signed by respondents, setting forth in detail the manner and form of their compliance with the Order to cease and desist.

The final order was issued by the Commission September 30, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-30717 Filed 11-13-75;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-327]

PART 200—INTRODUCTION

Affirmative Fair Housing Marketing Regulations; Correction

On May 8, 1975 (40 FR 20080) the Department published amendments to its Affirmative Fair Housing Marketing regulations. The following corrections should be made to that document:

1. In the last entry of the heading change "Affirmative Fair Housing Market Regulations Amended" to read "Affirmative Fair Housing Marketing Regulations".

2. In § 200.620(a) change "person" in line 8 to read "program".

(Section 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d)).

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.75-30735 Filed 11-13-75;8:45 am]

[Docket No. R-75-340]

PART 280—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

Correction

In FR Doc. 75-30257 which appeared at the bottom of the second column of page 52706 in the issue for Tuesday, November 11, 1975, and corrected a previous document (FR Doc. 75-22727; 40 FR 40261; Sept. 2, 1975), the signature was inadvertently omitted and the file date and time appearing at the end of the document was incorrect.

1. The signature should appear on page 52708 immediately above the file line and should read: "David S. Cook, Assistant Secretary—Commissioner for Housing Production and Mortgage Credit".

2. The file line itself should read: "[FR Doc. 75-30257 Filed 11-7-75; 9:50 am]".

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-786]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Dubuque, Iowa, Base Flood Elevations

On May 15, 1970, at 35 FR 7561, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map numbers and locations where Flood Insurance Rate Maps were available for public inspection. The list included Flood Insurance Rate Maps for portions of Dubuque.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Dubuque, Iowa. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 195180A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. Frank Murray, Assistant City Manager, City Hall, Central Avenue, Dubuque, Iowa 52001.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Dubuque Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contaned on the Dubuque map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24 1974.)

Issued: October 31, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc. 75-30776 Filed 11-13-75;8:45 am]

[Docket No. FI-785]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Alvin, Tex., Base Flood Elevations

On February 19, 1972, at 37 FR 3749, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map numbers and locations where Flood Insurance Rate Maps were available for public inspection. The list included Flood Insurance Rate Maps for portions of Alvin.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Alvin, Texas. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485451A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

City Manager, City of Alvin, P.O. Box 1407, Alvin, Texas 77511.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Alvin Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Alvin map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 4, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-30777 Filed 11-13-75;8:45 am]

[Docket No. FI-784]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Corpus Christi, Tex., Base Flood Elevations

On July 7, 1970, at 35 FR 9914, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map numbers and locations where Flood Insurance Rate Maps were available for public inspection. The list included Flood Insurance Rate Maps for portions of Corpus Christi.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Corpus Christi, Texas. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485464B, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

City Manager, 302 South Shoreline Drive, Corpus Christi, Texas 78408.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Corpus Christi Flood Insurance Rate May make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Corpus Christi map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 31, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-30778 Filed 11-13-75;8:45 am]

[Docket No. FI-783]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes Made in Determinations of Hitchcock, Tex., Base Flood Elevations

On November 17, 1970, at 35 FR 17567, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map numbers and locations where Flood Insurance Rate Maps were available for public inspection. The list included Flood Insurance Rate Maps for portions of Hitchcock.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Hitchcock, Texas. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485479C, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

City Administrator, City of Hitchcock, 7423 Highway 6, Hitchcock, Texas 77563.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Hitchcock Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Hitchcock map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 31, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-30779 Filed 11-13-75;8:45 am]

[Docket No. FI-545]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Dania, Fla.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Dania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community of individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 2600 Hollywood Boulevard, Hollywood, Florida 33022.

§ 1917.10 Notice of final determination.

Source of flooding	Location	Elevation (feet above mean sea Level)	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)
Atlantic Ocean	U.S. Highway No. 1	8	Fro n 200 ft south of corporate limits to 2,000 ft south of corporate limits.
	Taylor Rd	8	Entire road.
	9th St. NW	6	Do.
	Broward Rd	6	Fro n corporate limits to 1,300 ft east of corporate limits.
	10th Ave. NW	6	Fro n 500 ft north of 7th St. NW, to end of road (going south).
	2d St. NW	6	From western corporate limits to 50 ft east of 8th Ave. NW.
	do	6	From western corporate limits to Phippen Rd.
	3d St. NE	8	Begins 350 ft east of Federal Highway 1 to eastern corporate limits.
	Dania Beach Blvd	8	From 300 ft east of Federal Highway 1 to eastern corporate limits.
	4th Pl. SE	8	From 250 ft west of 2d Ave. SE., to corporate limits.
	7th St. SE	8	Fro n 350 ft west of 2d Ave. SE., to end of road (going east).
	Sheridan St	8	From 275 ft west of 2d Ave. SE., to corporate limits.

Authority:

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: October 29, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-30782 Filed 11-13-75;8:45 am]

[Docket No. FI-782]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Arvada, Colo.

On July 13, 1972, in 37 FR 13715, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Arvada, Colorado, as an eligible community and included Map No. H 085072 04, which indicates that Lot 10, Ralston Valley Gardens No. 3, Arvada, Colorado, as recorded in Page 31, Book 20, in the office of the Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, effective May 1, 1971, Map No. H 085072 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: October 28, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-30783 Filed 11-13-75;8:45 am]

[Docket No. FI-384]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Calvert County, Md.

On October 23, 1974, in 39 FR 37641, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included Calvert County, Maryland, as an eligible community and included Map No. H 240011 14 which indicates that a portion of Lot 2A, Preston Point Subdivision, Calvert County, Maryland, as recorded in J.L.B. 2, Folio 71 in the Plat Records of the Circuit Court of Calvert County, Maryland, is located within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a part of the above property, which can be described as follows:

Beginning at a point, said point being a common corner between Lot 2A and Lot 1A of the Resolution of Lots 1 through 4, 29, and 30, and Relocation of Preston Drive, said point also being on the easterly right-of-way line of Preston Drive; thence along the line common to Lots 2A and 1A, S 83°16'20'' E a distance of 219.20 feet; thence departing from said line and running through Lot 2A, S 06°43'40'' W a distance of 128.03 feet to a point on the line common to Lots 2A and 3A; thence along said line, N 61°28'00'' W a

distance of 250.28 feet to a point on the easterly right-of-way line of Preston Drive; thence along said right-of-way along a curve to the right having a radius of 262.00 feet an arc distance of 37.48 feet, to the point of beginning.

is not within the Special Flood Hazard Area. Accordingly, effective October 18, 1974, Map No. H 240011 14 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: October 29, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-30784 Filed 11-13-75;8:45 am]

[Docket No. FI-315]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grandview, Mo.

On August 6, 1974, in 39 FR 28244, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Grandview, Missouri, as an eligible community and included Map No. H 290171 04, which indicates that Lots 1 through 16, Block 1; Lots 1 through 17, Block 2; Lots 1 through 10, 22 through 25 and 30 through 32, Block 3; Lots 1 through 17, Block 4; Lots 1 through 34, Block 5; Lots 1 through 3, 9, 10, and 13 through 15, Block 6; Lots 1, 2, and 5 through 8, Block 7; and Lots 1 through 3, Block 8, River Oaks First Plat, Grandview, Missouri, as recorded in Book 33, Page 86, in the office of the Recorder of Deeds of Jackson County, Missouri, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, effective July 19, 1974, Map No. H 290171 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 29, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-30785 Filed 11-13-75;8:45 am]

[Docket No. FI-781]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Fairfax County, Va.

On January 8, 1972, in 37 FR 281, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Fairfax County, Virginia, as an eligible community and included Map No. H 515525 18 which indicates that Lot 326, Kings Park West, Section 6, being 10027 Whitefield Street, Fairfax County, Virginia, as recorded in Deed Book 3103, Page 715 in the office of the Clerk of the Court of Fairfax County, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone C, and not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, effective June 17, 1970, Map No. H 515525 18 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: October 28, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-30786 Filed 11-13-75;8:45 am]

Title 32—National Defense

CHAPTER XVII—SELECTIVE SERVICE SYSTEM (CLEMENCY PROGRAM)

PART 1700—RECONCILIATION SERVICE

Transfer of Regulations

EDITORIAL NOTE. Pursuant to 1 CFR 8.2, the Director of the Federal Register hereby redesignates regulations codified in Part 200 of 2 CFR Chapter II as Part 1700 of 32 CFR Chapter XVII, titled to read as set forth above.

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 4—SCHEDULE FOR RATING DISABILITIES

Determination of Hearing Impairment; Conversational Voice in Feet

In accordance with the authority vested in the Administrator by law, 38 U.S.C. 355, to readjust the schedule of ratings, § 4.85 is corrected and table II in § 4.87 as amended effective September 9, 1975 (40 FR 42535) is further amended by changing the pure tone audiometric average decibel loss at the three frequencies of 500, 1,000, and 2,000 (either air conduction or GSR) at the various levels of hearing in both the better and poorer ear.

This change, which was inadvertently omitted in the prior amendment is being made to conform to ISO (ANSI) norms as was done in table I of § 4.87, and is for the purpose of eliminating the necessity of interpolation of ASA norms.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development, is unnecessary in this instance and would serve no useful purpose as the changes merely conform with Table I of § 4.87.

1. In § 4.85, paragraphs (a) and (c) are revised to read as follows:

§ 4.85 Hearing impairments, reported as a result of regional office or authorized audiology clinic examinations.

(a) If the results of controlled speech reception tests are used, the letter, A through F, designating the impairment in efficiency of each ear separately, will be ascertained from table I. Table I indicates six areas of impairment in efficiency. The literal designation of impaired efficiency (A, B, C, D, E, or F) will be determined by intersecting the horizontal row appropriate for percentage of discrimination and the vertical column appropriate to the speech reception decibel loss; thus, with a speech reception decibel loss of 62 db and a percentage discrimination of 72 percent the literal designation is "D"; if the speech reception decibel loss is 62 db and the percentage discrimination is 70 percent, the literal designation is "E".

* * * * *

(c) If the results of pure tone audiometry (either pure tone air conduction or Galvanic Skin Response, GSR) are used, the equivalent literal designation for each ear, separately, will be ascertained from table II, and the percentage evaluation determined in the same manner as for speech reception impairment in paragraph (b) of this section.

For example, if the average pure tone decibel loss for the frequencies 500, 1,000, and 2,000 is not more than 57 db and there is no loss more than 70 db for any of these three frequencies, the equivalent literal designation is "C"; if in the other ear, the average is not more than 79 db, and there is no loss more than 90 db, the equivalent literal designation is "D". The percentage evaluation is therefore found in the horizontal row opposite "C", and in the vertical column under "D", and is 20 percent. Note that if in the first instance any of the 3 frequencies has a loss of more than 70 db, or in the second instance more than 90 db, the literal designation will be higher, i.e., further from "A" in the alphabetical series.

2. In § 4.87, table II is revised to read as follows:

§ 4.87 Conversational voice in feet.

* * * * *

TABLE II

Hearing in better ear			Hearing in poorer ear					
			Conversational voice in feet					
			0 ft	1 to 4 ft	5 to 7 ft	8 to 9 ft	10 to 14 ft	15 to 40 ft
			Pure tone audiometry decibel loss					
Conversational	Pure tone audiometry average decibel loss at 3 frequencies: 500, 1,000, and 2,000 (either air conduction or GSR)	Speech reception impairment literal designation	Average 100 or more	Average not more than 99; none more than 105	Average not more than 79; none more than 90	Average not more than 57; none more than 70	Average not more than 45; none more than 55	Average not more than 37; none more than 45
			Speech reception impairment literal designation					
			F	E	D	C	B	A
0 ft	Average 100 or more	F	80 (6277)					
1 to 4 ft	Average not more than 99; none more than 105.	E	60 (6278)	60 (6283)				
5 to 7 ft	Average not more than 79; none more than 90.	D	40 (6279)	40 (6284)	40 (6288)			
8 to 9 ft	Average not more than 57; none more than 70.	C	30 (6280)	30 (6285)	30 (6289)	20 (6292)		
10 to 14 ft	Average not more than 45; none more than 55.	B	20 (6281)	20 (6286)	20 (6290)	10 (6293)	10 (6295)	
15 to 40 ft	Average not more than 37; none more than 45.	A	10 (6282)	10 (6287)	10 (6291)	0 (6294)	0 (6296)	0 (6297)

Effective date. These VA Regulations are effective September 9, 1975.

Approved: November 7, 1975.

[SEAL] R. L. ROUDEBUSH, *Administrator.*

[FR Doc.75-30621 Filed 11-13-75;8:45 am]

PART 17—MEDICAL

State Home Facilities for Furnishing Nursing Home Care

Appendix A is revised to establish the maximum number of beds allowed by 38 U.S.C. 5034(1) to provide adequate nursing home care to war veterans residing in each State.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose. This amendment merely adjusts the bed quotas in each State to reflect the current war veteran population.

Immediately following § 17.176, Appendix A is revised to read as follows:

APPENDIX A (SEE § 17.171)

STATE HOME FACILITIES FOR FURNISHING NURSING HOME CARE

The maximum number of beds, as required by 38 U.S.C. 5034(1), to provide adequate nursing home care to war veterans residing in each State is established as follows:

State	War veteran population [1]	Number of beds
Alabama	375,000	937
Alaska	36,000	90
Arizona	260,000	650
Arkansas	233,000	582
California	2,899,000	7,247
Colorado	311,000	777
Connecticut	414,000	1,035
Delaware	70,000	175
District of Columbia	94,000	235
Florida	1,045,000	2,612
Georgia	547,000	1,367
Hawaii	81,000	202
Idaho	89,000	222
Illinois	1,398,000	3,495
Indiana	641,000	1,602
Iowa	331,000	827
Kansas	277,000	692
Kentucky	364,000	910
Louisiana	401,000	1,002
Maine	130,000	325
Maryland	544,000	1,360
Massachusetts	779,000	1,947
Michigan	1,060,000	2,650
Minnesota	486,000	1,215
Mississippi	220,000	550
Missouri	621,000	1,552
Montana	90,000	225
Nebraska	175,000	437
Nevada	82,000	205
New Hampshire	109,000	272
New Jersey	986,000	2,465
New Mexico	120,000	300
New York	2,278,000	5,695
North Carolina	545,000	1,362
North Dakota	57,000	142
Ohio	1,339,000	3,347
Oklahoma	352,000	880
Oregon	324,000	810
Pennsylvania	1,581,000	3,952
Rhode Island	135,000	337
South Carolina	286,000	715
South Dakota	70,000	175
Tennessee	472,000	1,180
Texas	1,426,000	3,565
Utah	126,000	315
Vermont	56,000	140
Virginia	575,000	1,437
Washington	519,000	1,297
West Virginia	213,000	532
Wisconsin	514,000	1,285
Wyoming	43,000	107
Puerto Rico (Commonwealth)	133,000	332

[1] Estimate as of June 30, 1975.

Source: Reports and Statistics Service, Office of the VA Controller. (Based on last available Bureau of the Census data.)

(72 Stat. 1114; 38 U.S.C. 210.)

This VA Regulation is effective November 10, 1975.

Approved: November 10, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN, *Deputy Administrator.*

[FR Doc. 75-30754 Filed 11-13-75; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amendment E-174]

PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Validation of Cobol Compilers

In the May 24, 1974, issue of the FEDERAL REGISTER (39 FR 18299), the General Services Administration published a notice of proposed rulemaking adding to Subpart 101-32.13 a new § 101-32.1305-1a, Validation of COBOL compilers. As proposed, GSA would establish policy for testing COBOL compilers and would require Federal agencies to ensure that these compilers are tested to confirm that they meet a designated level of the Federal Standard COBOL. All comments submitted about the proposed amendment were considered. Because this regulation concerns a complex area, it is subject to change with its use. Comments and suggestions for improvement are invited from all interested parties.

The table of contents for Part 101-32 is amended by adding the following new entry:

101-32.1305-1a Validation of COBOL compilers.

SUBPART 101–32.13—IMPLEMENTATION OF FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATIONS (FIPS PUB) INTO SOLICITATION DOCUMENTS

Section 101–32.1305–1a is added to Subpart 101–32.13 as follows:

§ 101–32.1305–1a Validation of COBOL compilers.

This section prescribes the policy for testing COBOL compilers that are asserted to conform with one or more levels specified in the Federal Information Processing Standards Publication (FIPS PUB) 21–1, Federal Standard COBOL, and are offered to the Federal Government for purchase or lease. The term validation as used in the context of this section is the process of testing a given COBOL compiler against predetermined conditions and specifying which, if any, conditions are not met.

NOTE: Although this regulation refers to FIPS PUB 21–1 this regulation applies equally to all compilers based on FIPS PUB 21 brought into the Federal inventory subsequent to the effective date of this regulation and during the transition period described in paragraph 11.2 of FIPS PUB 21–1.

(a) FIPS PUB 21–1 specifies the use of the American National Standard COBOL, X3.23–1974, as the Federal Standard COBOL. This standard defines the elements of the COBOL programming language and the rules for their use. COBOL compilers offered by vendors as a result of requirements set forth by Federal agencies in solicitations must implement the language elements of a designated level of the Federal Standard COBOL. To confirm that an implementation meets the specifications of a designated level of the Federal Standard COBOL, test routines have been developed and approved for use in testing COBOL compilers. These routines are known as the COBOL Compiler Validation System (CCVS). A Federal COBOL Compiler Testing Service (FCCTS) also has been established to provide a validating service for the Federal agencies. The FCCTS is sponsored by the Department of Defense (DOD) under delegation of authority from the National Bureau of Standards (NBS).

(b) All COBOL compilers brought into the Federal inventory shall be validated. The test results for a COBOL compiler shall be used by a Federal agency to confirm that, insofar as the CCVS tests the language elements included in a designated level of Federal Standard COBOL, the compiler meets the specifications of that level of the Standard. When an agency has indicated a waiver to a Federal Standard COBOL specification in a solicitation, only the portions of the language that have been waived are excluded from the validation requirements.

(c) Requests for validations and questions pertaining thereto are submitted to:

Director, Federal COBOL Compiler, Testing Service, Department of the Navy, ADPE Selection Office, Washington, DC 20376.

(d) When a request for validation service requires that compiler testing be performed, the requestor is responsible for providing the necessary test facilities.

(e) In response to a request for validation service, the FCCTS will provide a Validation Summary Report (VSR) reflecting a summarization of the test results.

(f) Validation is performed on a cost-reimbursable basis. The FCCTS will send the requestor an estimate of validation costs, reimbursable to the FCCTS, which is to be approved before beginning the validation process.

(g) Unresolved questions and/or any ambiguities that are identified by the FCCTS or by the requestor shall be referred to the NBS in accordance with FIPS PUB 29.

(h) The standard terminology for use in solicitation documents is:

VALIDATION OF COBOL COMPILERS

In addition to the specified mandatory COBOL compiler requirements stated in the specification portion of this solicitation, all COBOL compilers brought into the Federal inventory as a result of this solicitation, the most recent release of which has not previously been tested, must be tested using the official COBOL Compiler Validation System (CCVS). Validation shall be in accordance with Federal Property Management Regulation (FPMR) 101–32.1305–1a. The results of the validation shall be used to confirm that the compiler meets the specified requirements of the designated level of FIPS PUB 21–1 Federal Standard COBOL. To be considered responsive the vendor shall:

(i) Certify in his proposal that all COBOL compilers offered in response to this solicitation have been submitted for validation as set forth in FPMR 101–32.1305–1a.

(ii) Agree to correct all deviations from the standard reflected in the Validation Summary Report (VSR) not previously covered by a waiver. All deviations must be corrected within 12 months from the date of contract award unless a shorter period is specified elsewhere in this solicitation. If an interpretation of the Standard is required that will invoke the procedures set forth in FIPS PUB 29, such requests for interpretations will be made within 30 calendar days after contract award.

Any corrections that are required as a result of decisions made under the procedures of FIPS PUB 29 will be completed within 12 months of the date of formal notification of the interpretation to the contractor. Failure to make required corrections within the time provisions set forth above shall be deemed a failure to deliver required software. The liquidated damages as specified for failure to deliver either operating system or other software shall apply. In addition, such failure falls within the purview of the default clause. If the required corrections are not made within the time provisions specified above, subsequent proposals submitted to the Government offering the deficient COBOL compilers or subsequent uncorrected versions thereto shall be considered nonresponsive.

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

Effective date. This regulation is effective November 14, 1975.

Dated: November 4, 1975.

DWIGHT A. INK,
Acting Administrator of General Services.

[FR Doc.75–30757 Filed 11–13–75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19528; FCC 75–1248]

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS)

PRELIMINARY STATEMENT

1. The Commission has under consideration the Recommended First Report and Order of the Federal-State Joint Board (Joint Board) in this matter, together with its recommendation that we also consider the General Order establishing the California registration program. We also have before us the comments concerning these proposals which we requested interested persons to file in our Memorandum Opinion and Order released May 27, 1975 (53 FCC 2d 219).

2. Timely comments were filed by Ad Hoc Telecommunications Committee, Adcor Electronics, Inc., American Petroleum Institute, American Telephone and Telegraph Company (AT&T), Association of American Railroads, Association of Data Processing Service Organizations, California Public Utilities Commission, Communication Certification Laboratory, Computer and Business Equipment Manufacturer's Association, Continental Telephone Corporation, DASA Corporation, Dictaphone Corporation, Electronic Industries Association, Executone Communication Systems, The GTE Companies, Independent Data Communications Manufacturers Association, International Business Machines, National Telephone Cooperative Association, National Retail Merchant's Association, North American Telephone Association, North Carolina Utilities Commission, Office of Consumer Affairs by Virginia H. Knauer, Phonetele, Inc., Public Utilities Commission of Ohio, Rochester Telephone Company, Rollings Protective Service Company, Scott-Buttner Communications, Sentry Technology, Inc., T.A.D. Avanti, Inc., United States Department of Justice, United States Independent Telephone Association, and Utilities Telecommunications Council. In addition we have received approximately two hundred letters addressing this subject.

3. We also received Reply Comments filed by Phone Mate, Inc., an Opposition to the Reply Comments of Phone Mate, Inc. filed by AT&T, a Petition for Leave to File Further Comments and Further Comments filed by the Ohio Public Utilities Commission, Motion for Acceptance of Late Filing and Comments of New York Public Service Commission, Supplemental Comments filed by the Computer and Business Equipment Manufacturer's Association, and Supplemental Comments filed by International Business Machines. While we only provided for the filing of comments in our Memorandum Opinion and Order, *supra*, and made no provision for the filing of any

further comments, we believe the subject before us to be of such significance that we have accepted such late filed comments and further comments to assist us in determining our course of action.

4. GTE Service Corporation has filed a motion requesting that the Commission establish certain additional procedural dates or meetings for the purpose of obtaining comments on AT&T's Authorized Protective Connecting Module program. Continental Telephone Corporation filed Comments supporting this motion. AT&T has also filed a motion requesting us to institute further proceedings to explore the option of allowing connection of terminal equipment through discrete protective modules. In view of the action we are taking herein, we perceive no necessity for the procedures or meetings GTE Service Corporation and AT&T have requested, since in accordance with our Memorandum Opinion and Order released November 5, 1974, 49 FCC 2d 580, we have considered AT&T's Authorized Protective Connecting Module program within the context of Docket No. 19528. In this regard we also believe the record in this matter suffices for our deliberations and that oral argument is neither necessary nor helpful in this matter.

5. The Commission also has pending before it (1) a Petition filed December 27, 1973, by the North American Telephone Association for Amendment of Procedures, Issuance of a Notice of Proposed Rule Making and Establishment of Interim Procedures relative to the interconnection of customer-provided terminal communication equipment and systems and (2) a Motion filed September 26, 1974, by the Computer and Business Equipment Manufacturers Association for Separation of Issues and for an Order Authorizing a Program of Direct Interconnection of Customer Owned Data Terminal Equipment and Ancillary Telephone Equipment. In view of the action we are taking herein, we will dismiss these pleadings as moot.

BACKGROUND

6. This Commission and the courts have consistently enunciated the subscriber's right to make beneficial use of an interconnected device or communications system without causing harm to a telephone company's operations. On remand in *Hush-A-Phone*,[1] the Commission enunciated the following broad principle of law and policy:

> In addition to invalidating the defendants foreign attachment tariff regulations insofar as they bar the use of the Hush-A-Phone device, an inescapable consequence of the Court's opinion is to render such tariff regulations unjust and unreasonable insofar as they may be construed or applied to bar a customer from using other devices which serve the customer's convenience in his use of the facilities furnished by the defendants and which do not injure the telephone companies' employees or facilities, or the public in the use of defendants' services, or impair the operation of the telephone system. As we construe the Court's opinion, a tariff regulation which amounts to a blanket prohibition against the customer's use of any and all devices without discriminating between the harmful and harmless encroaches upon the right of the user to make reasonable use of the facilities furnished by the defendants. Such a regulation goes beyond what is reasonably required in the interest of protecting the defendants' employees, facilities, the telephone system and the public from adverse effects. (emphasis supplied) 22 FCC 112, 113–114 (1957)

7. Relying on the holding *Hush-A-Phone, supra.*, we found in *Carterfone*[2] that a device used to interconnect mobile radio systems to the interstate and foreign message telecommunications system filled a need, that its use did not adversely affect the telephone system, and that the AT&T tariff prohibiting its use was unreasonable and unlawful within the meaning of Section 201(b) of the Communications Act of 1934. In making it clear that our *Carterfone* decision was not limited to the Carterfone device *per se*, but was rather a broad general policy, we stated:

> In view of the unlawfulness of the tariff there would be no point in merely declaring it invalid as applied to the Carterfone and permitting it to continue in operation as to other interconnection devices. This would also put a clearly improper burden upon the manufacturers and users of other devices. The appropriate remedy is to strike the tariff and permit the carriers, if they so desire, to propose new tariff provisions in accordance with this opinion. 13 F.C.C. 2d 420, 425.

8. We further held that broad *Carterfone* policy applied equally to devices which had direct electrical connections.[3] We noted that AT&T considered this to be a special category but had not clearly demonstrated the basis for this exception[4] (14 F.C.C. 2d 571, 573 (ftn. 4)), and went on to comment:

> The primary contention upon reconsideration is that our decision permits the use of a myriad of customer-provided devices for interconnection without adequate exploration of the technical and economic problems. This record convinces us that there can be interconnection without harmful technical effects. With respect to possible economic effects from the interconnection of private systems—"the piecing out of common carrier services with unregulated systems"—no substantial effort was made on this record to demonstrate any harm from the interconnection of private mobile radio systems, and we therefore had no occasion to address ourselves to that question. We agreed that economic effects upon the carriers' rate structure might well be a public interest question. But it is an issue, if a carrier seeks to raise it, to be decided upon the facts, i.e., will there be a "cream skimming" effect, what will be the extent of it, and how does it weigh against the benefits of interconnection. As is the case with the question of technical harm, a tariff is unreasonable if it assumes a priori a conclusion as to such an issue. (emphasis supplied) (footnotes omitted). 14 F.C.C. 2d 571, 572–573.

9. We did not prescribe the terms of the tariff revisions required to satisfy the *Carterfone* policy, but left that to the initiative of the telephone company. AT&T filed new and revised tariffs and subsequent amendments on behalf of itself and concerned interstate carriers, which allow the interconnection of customer-provided equipment (1) through the use of carrier-supplied connecting arrangements subject to certain technical requirements, and, if required, network control signalling units; (2) in accordance with a carrier-administered attestation program for headsets and non-powered conferencing devices; and (3) in accordance with a carrier-administered program for conforming answering devices.

10. The *Carterfone* Decision placed the burden of proof squarely upon the carriers—not the users or this Commission—to demonstrate that a particular unit or class of customer-provided equipment would cause either technical or economic harm to the telephone network, note 4, *supra;* this burden was to be met *prior* to the filing of a tariff restricting the use of such equipment. The information accompanying the tariff revisions filed pursuant to *Carterfone* did not demonstrate that the direct electrical connection of all customer-provided equipment would cause harm unless accomplished through the carrier-supplied connecting arrangements provided for in the tariff. At best, it simply reflected one manner in which to protect the network. It was not even argued that this protection was the minimum protection required or the most cost effective. Nevertheless, the Commission, exercising an abundance of caution in protecting the telephone network from any possible harm, allowed the tariffs to become effective without ruling explicitly on their lawfulness.[5]

11. At the same time, the Commission instituted informal proceedings to obtain technical and operational data to assist its evaluation of the public interest factors involved in liberalizing the network control signalling unit and connecting arrangement provisions of the revised tariffs. Contracts to study these possible revisions were issued to the National Academy of Sciences and Dittberner Associates, and their subsequent reports together with comments from interested parties indicated that consideration should be given to revisions in MTS and WATS offerings under a program that would protect the telephone network from four types of harm: (a) hazardous voltages; (b) excessive signal power levels; (c) improper network control signalling and (d) line imbalance. Thereafter, the Commission created two ad-

[1] *Hush-A-Phone Corp. v. U.S.*, 99 U.S. App. D.C. 190, 238 F. 2d 266 (D.C. Cir. 1956).

[2] *Carterfone*, 13 FCC 2d 420 (1968), reconsideration denied, 14 FCC 2d 571 (1968).

[3] *See ITT v. General Telephone and Electronics Corp.*, 518 F. 2d 913, 933 (9th Cir. 1975).

[4] *See Phonetele, Inc. v. California Public Utilities Commission*, 11 C. 3d 125, 520 P. 2d 400 (1974).

[5] *AT&T "Foreign Attachment" Tariff Revisions*, 15 FCC 2d 605 (1968), reconsideration denied, 18 FCC 2d 871 (1969).

visory committees, pursuant to Executive Order 11007, to study the possibilities of initiating such a standards program for selected classes of equipment such as (1) customer-provided PBX's and (2) automatic dialers and recording and answering devices.

DOCKET NO. 19528 PROCEEDINGS

12. On June 14, 1972, the Commission instituted this proceeding by Notice of Inquiry and Proposed Rule Making, 35 FCC 2d 539 (1972), to determine whether and under what terms, conditions, or limitations the interstate MTS and WATS tariffs should be revised to allow customers to have the option of furnishing any needed network control signalling units and connecting arrangements (or the functional equivalent thereof), and to determine what rules, if any, the Commission should adopt with respect to the foregoing. In addition, a Federal-State Joint Board was established pursuant to Section 410 of the Communications Act of 1934, as amended, to submit its recommendations to the Commission concerning this matter.

13. In our First Supplemental Notice in Docket No. 19528, 40 FCC 2d 315 (1973), we questioned whether, at that time, it was feasible from a technical, engineering, operational and administrative viewpoint to establish an optional program in lieu of or in addition to the present tariff requirements for carrier-provided network control signalling units and connecting arrangements and requested comments concerning a number of reports and proposals. These reports and proposals include: (1) the report and recommendations of the PBX Standards Advisory Committee; (2) the proposal of the Office of the Chief Engineer of this Commission; and (3) the proposal of the National Association of Regulatory Utility Commissioners (NARUC) Staff Subcommittee Report on Communication Interconnection. In addition to these specific proposals, we also invited comments concerning other alternatives such as: (1) the Rochester Telephone Company's NPD program; (2) the establishment of standards by the carriers and the incorporation of such standards in tariffs or technical references with the carriers being responsible for the program's enforcement; and (3) leaving the tariffs unchanged but requiring the carriers to improve their services and applying the same practices to both carrier and customer-provided facilities. The Joint Board we convened in this matter has reviewed these comments and issued its Recommended First Report and Order which is presently before us for consideration.

14. The Joint Board has proposed that customer and carrier-provided ancillary and data terminal equipment be directly connected to the telecommunications network if it is registered with the Commission under a program similar to this Commission's existing type acceptance program for radio transmitting equipment. The proposed plan is to apply to all terminal equipment other than PBXs, key telephone systems, main telephones, extension telephones and coin telephones. Registration is to be based on representations and test data submitted by an applicant to the Commission. If the representations and test data concerning a particular device are found to comply with specific interface criteria and other requirements and the Commission determines that it is in the public interest, convenience and necessity, such device would then be registered. The Joint Board proposal would require each device to have affixed to it installation, maintenance and operating instructions, and would allow connection of registered devices to the network to be accomplished through the use of standard plugs, jacks and other simple arrangements as provided in tariffs.

15. The California Public Utilities Commission in its General Order No. 138 has adopted rules permitting the direct attachment to the telecommunications network of customer-provided ancillary and data terminal equipment and of protective couplers where they have been certified by a registered electrical engineer qualified in the field of communications equipment. The program applies only to customer-provided equipment, not to carrier-provided equipment. Certification is based on the registered engineer's examination of the design and operating characteristics of the device, the manufacturer's quality control procedures, and the servicing. The test standards and enforcement procedures regarding these factors are not specified in the plan, but are left to the discretion of the registered engineer. After being granted a registration number, the manufacturer must keep records of his quality control procedures, and these records are to be examined annually by the certifying engineer. Further, manufacturers or vendors must offer a maintenance contract with all certified equipment.

16. We have given careful consideration to American Telephone and Telegraph Company's (AT&T) connecting arrangement program (AT&T Tariff F.C.C. No. 263, Sections 2.6.4(A) (1), (2) and (3); 2.6.4(B)(1); 2.6.4(D)(1)(a)),* AT&T's manufacturer attestation program for customer-provided headsets and non-powered conferencing equipment (Tariff 263, Section 2.6.4(E)),* AT&T's conformance program (APCM program) for answering devices (Tariff 263, Section 2.6.4 (F)),* the Rochester Telephone Company's NPD program (Tariff 263, Section 2.9), the reports of the National Academy of Sciences and Dittberner Associates, the various reports of the several advisory committees and subcommittees, the recommendations of the Federal-State Joint Board, the California registration program, and all the comments of the many parties who have participated throughout the various stages of the proceedings herein. In addition, we have noticed other reports and materials, and where such were used in arriving at our findings they are so noted. In the seven years which have elapsed since our *Carterfone* ruling, the carriers have been afforded ample opportunity to proposed effective procedures and/or tariff conditions to prevent harm without unduly restricting a customer's basic right to make reasonable use of the facilities and services furnished by the carrier. This the carriers have failed to do (with the possible exception of non-powered conferencing devices, headsets and conforming answering devices). The evidence before this Commission amply demonstrates that many "special" entities (e.g., gas, oil, electric, and transportation companies, selected industrial firms, the Department of Defense, the National Aeronautics and Space Administration, and customers in "hazardous or inaccessible locations") have long been and continue to be allowed to connect their equipment and facilities directly to the telephone network by means less restrictive than carrier-provided connecting arrangements (Tariff 263, Sections 2.7.5, 2.7.6, 2.7.7 and 2.7.8) apparently without causing harm to the network. We also note that there has been no demonstration of network harm resulting from the interconnected operation of some 1600 independent local telephone companies and the Bell System (including small rural, municipal, and co-op systems)—many of whom purchase and connect without benefit of carrier-supplied connecting arrangements the identical independently manufactured terminal equipment for which the individual user must lease carrier-supplied connecting arrangements. Accordingly, in view of our findings in this proceeding concerning the mechanisms which can cause technical harm and effective means for preventing such harms, the Commission has now reached three separate and independent conclusions.

First, the present tariff provisions requiring the use of carrier-supplied connecting arrangements impose an unnecessarily restrictive limitation on the customer's right to make reasonable use of the services and facilities furnished by the carriers. Second, they constitute an unjust and unreasonable discrimination both among users (or classes of users) and among suppliers of terminal equipment. Third, the standards and procedures prescribed herein for the registration with this Commission of protective circuitry and/or terminal equipment will provide the necessary minimal protection against network harm which has been specified in various carrier operating procedures and/or the recommendations of the Joint Board, the California PUC, the NAS and Dittberner studies, and the Commission's interconnect advisory committees, and will serve the public interest. Equipment containing the appropriate FCC registered protective circuitry, or FCC registered terminal equipment, may, following the effective date of this Order, be connected directly with the telephone network pursuant to the procedures set forth in these rules, without benefit of carrier-supplied connecting arrangements. Carriers may continue to provide

*Similar tariff provisions appear in other sections of Tariff 263 (MTS) as well as Tariff 259 (WATS).

such connecting arrangements, if registered, and may require their use for equipment not registered with the FCC or not used in conjunction with appropriate FCC registered protective circuitry. Except as herein provided, carriers may not require the use of such connecting arrangements or other interface devices or arrangements for FCC registered equipment or protective circuitry, and may not impose other tariff conditions contrary to the *Carterfone* policy without prior approval of the Commission.

THE F.C.C. REGISTRATION PROGRAM

17. The program which we are adopting was designed with the goals of (1) protecting the public switched telephone network from harms which might be caused by connection of terminal equipment to the network and (2) keeping the program as simple and easy to administer as is reasonably possible with a minimum of government intervention. Basically the program allows users to connect any terminal equipment to the telephone network if such equipment is connected through protective circuitry registered with the Commission or if such equipment is itself registered with the Commission. The option of registering only discrete protective circuitry rather than the entire terminal equipment will (1) eliminate unnecessary documentation relating to total system design and performance criteria. (Even for complex terminal equipment and/or systems, this option will require documentation relating only to the discrete protective circuitry.); (2) remove the need for filing proprietary information, thus eliminating the need to establish cumbersome procedures for handling such information; (3) allow users and manufacturers greater flexibility in satisfying the requirements of our registration program through the separate purchase of protective circuitry, if desired; and (4) enable us to administer our registration program with an absolute minimum of expense to both the government and private industry—to the benefit of the ultimate users—while at the same time protecting the public switched telephone network from harms which could be caused by the connection of faulty terminal equipment.

18. As noted above, the Federal-State Joint Board recommended that PBXs, key telephone systems, and main station, extension and coin telephones be excluded from the registration program at this time, thus requiring that these devices continue to be interconnected with the network via carrier-provided connecting arrangements. In this respect the Joint Board plan differed from that proposed in 1972 by the FCC's Office of the Chief Engineer, although the Joint Board largely adopted the Chief Engineer's proposal. Many parties have urged that some or all of these classes of terminal equipment be included, and point to the Joint Board's failure to provide any basis for such proposed exclusion. While it did not explicitly so state, we believe the Joint Board's recommendation to defer inclusion of these devices was based primarily on technical concerns relating to the more complex network control signalling functions performed by some of these devices. In view of the clarification of network harms; the delineation of the roles, responsibilities and incentives of the various parties in protecting against these harms; and the registration standards and procedures contained herein, we believe that many if not all the technical concerns reflected in the Joint Board's exclusion of these equipment classes have been mooted. With this clarification, we are tentatively of the view that there is no valid distinction as to the potential for harm from any of the excluded classes of devices. However, since all parties may not have considered it necessary fully to address the inclusion of PBX's, key telephones, and main stations at this time, in view of the Joint Board's recommendation, we shall afford interested parties an opportunity to comment further on the inclusion of these classes of equipment. Accordingly, PBX's, key telephone systems, main station telephones, coin telephones, and equipment connected to party lines [7] will be excluded from the registration program established herein, pending further order of the Commission.[8]

19. Several of the parties to this proceeding have suggested that it would be inappropriate to adopt new policies concerning interconnection prior to collection and evaluation of the pertinent data filed in Docket No. 20003 concerning the economic effects of such interconnection. Recognizing that Docket No. 20003 constitutes a broad fact-finding investigation of the economic implications and interrelationships among a number of industry developments, policies, and practices—some instituted pursuant to regulatory policy, others carrier-initiated—we previously held that "the commencement of the notice of inquiry in Docket No. 20003 does not necessarily preclude further action in Docket No. 19528."[9] In short, the Docket No. 20003 inquiry is not to become a "dumping ground" for existing docketed proceedings. Consistent with *Carterfone, supra*, as well as the more recent decision in *Mebane*, 53 F.C.C. 2d 473 (1975), we will afford any carrier the opportunity to demonstrate the need to restrict specific instances or classes of interconnection on the grounds of economic harm, and will continue to examine the broad, long-term and interrelated implications of interconnection, jurisdictional separations, and rate structures in Docket No. 20003. The present decision relates only to the requirements which interconnected devices must satisfy in order to avoid technical harm to the telephone network. In view of our findings in paragraph 16 above, we believe that the public interest would be best served by the prompt implementation of our registration program.[10]

20. The carriers have argued that, as they have every incentive as well as the technical and operational means to maintain a high quality service, a registration program for carrier-supplied equipment is unnecessary, and may impose additional expenses on them which must ultimately be borne by the telephone user. We do not question the carriers' dedication to high quality service, nor their desire and ability to protect the network from any harms which might be caused by carrier-supplied equipment. However, we note that carrier-supplied terminal equipment possesses the same *potential* for harm to the network as does customer-supplied equipment—particularly in view of the fact that much carrier-supplied equipment is purchased from independent manufacturers who market identical equipment to the general public. We also expect that the information provided by the carriers in their registration applications will be of considerable aid to the Commission as a benchmark against which other applications may be judged. Furthermore, when one participant in a competitive

[7] Since we do not now have interconnection criteria for party line service, we will, in the meantime, allow customer-provided terminal equipment to be connected through carrier-provided connecting arrangements as is now done under presently effective tariffs. Coin telephones are excluded because, under present regulatory policies, only telephone carriers may provide coin telephone service.

[8] While the rules proposed by the Joint Board listed extension telephones in the equipment to be excluded from the registration program at this time, we conclude that extension telephones properly fall within the category of "ancillary" devices included in the Joint Board recommendation. The record supports our view that there is no valid technical distinction between extension telephones and other "ancillary" devices. Because the standards adopted herein are equally applicable to extension telephones and because inclusion of extension telephones does not represent a significant departure from the Joint Board's recommendations, we feel that the public interest is best served by the prompt inclusion of extension telephones within the scope of our registration program.

[9] *Economic Implications Relating to Customer Interconnection, Jurisdictional Separations, and Rate Structures*, Docket No. 20003, 49 F.C.C. 2d 1238, 1240 (1974).

[10] Our *Carterfone* policy has permitted the public to utilize various types of equipment with the public communications network. It is our firm belief that public benefits have resulted from this policy. The purpose of Docket 19528 is not to revisit *Carterfone* but rather to review the present limitations imposed on the attachment of equipment to this network. Thus, issues relating to the potential overall economic impact of the *Carterfone* policy are beyond the scope of this proceeding. The potential economic consequences of *any* decision in this proceeding are minimal, since they affect only the differential costs and revenues associated with customer-provided vis-a-vis carrier-provided protective circuitry and procedures—not with the terminal device *per se*. In view of this we would expect that the parties in commenting on PBXs, key telephone systems, and main station telephones would limit their arguments to relevant matters and not to the basic policy decision enunciated in *Carterfone*.

market is subject to regulatory constraints (e.g. registration of equipment) while another is not, there exists the possibility of using the registration, notification, and complaint standards and procedures for competitive advantage. In a related proceeding, the Courts have already commented on such a situation;[11] and the carriers themselves have made the same argument in similar circumstances. These countervailing considerations require a careful weighing to ascertain wherein the overall public interest rests. On balance, and particularly in view of the relatively straightforward and inexpensive registration program we envision, we believe the public interest will best be served by requiring that carrier-supplied terminal equipment be registered, and consistent with the Joint Board recommendation we shall so order. However, we plan to reexamine the situation within the first year of operation of this registration program to determine whether the public benefits of requiring registration of carrier-provided equipment continue to outweigh any costs resulting therefrom, and to rule accordingly.

TECHNICAL REQUIREMENTS

21. The National Academy of Sciences, in its 1970 report to the Commission, identified four areas of potential "harm" which might arise as a consequence of permitting uncontrolled direct connection of equipment to the telephone network: (1) hazardous voltages, (2) excessive signal power levels, (3) excessive longitudinal imbalance, and (4) improper network control signaling. The National Academy of Sciences reported that the carrier-provided protective connecting arrangements protected against such "harms" within the boundaries of acceptableness regardless of the design of particular equipment connected thereto. Our program adopts a similar approach. We have specified the boundaries which may not be exceeded for each of hazardous voltage, signal power and longitudinal imbalance. Without requiring any particular circuit design to be employed, we have required that the design of registered terminal equipment and registered protective circuitry assure that these boundaries are not exceeded, and will continue not to be exceeded, under foreseeable usage and mechanical and electrical stress. Registered protective circuitry is required to provide assurance of conformance to our interface requirements regardless of the particular equipment connected thereto and regardless of what failure modes such equipment may manifest. Registered terminal equipment is required to provide such assurance under all foreseeable failure modes of such registered terminal equipment and of equipment expected to be connected thereto. Such assurance may be provided either by incorporating protective circuitry in the registered terminal equipment, or, alternatively, by virtue of a design which precludes violation of the boundary constraints.

22. With the exception of on-hook impedance, we do not believe it is necessary to impose standards upon network control signaling. We are not persuaded that individual violations of criteria on compatible network control signaling will have any significant effect upon the telephone service of other telephone network users. Improper network control signaling will most directly affect the telephone service of the user of equipment which generates improper network control signals. A user there has no incentive to generate improper network control signals, as he will only decrease the utility of his own telephone service by so doing (e.g. fail to receive telephone calls, be unable to generate telephone calls, or reach wrong numbers); thus we feel that any problems which may arise will be self-correcting. We would note that the present telephone company-provided connecting arrangements do not fully protect against improper network control signaling,[12] and that since such connecting arrangements were first offered in 1969, the carriers have not increased the level of protection against improper network control signaling provided by their connecting arrangements. From this we conclude that improper network control signaling has not been a significant problem to the carriers, and that the presently-effective approach of specifying proper network control signals in the tariffs, and in informational materials ("Technical References") distributed to equipment manufacturers has been effective, and has provided the requisite protection. We encourage the carriers to continue to provide informational materials to equipment manufacturers and others concerning network control signaling,[13] and commend the reports of our advisory committees on PBXs, telephone answering devices and telephone dialers to the attention of equipment manufacturers as one source of such information.

23. Should improper network control signaling proliferate on the telephone network, the point could be reached where telephone facilities which are shared among many network users (e.g. central office equipment, trunks, etc.) would be nonproductively engaged in reaching wrong numbers, and incompleted calls, etc., which would degrade the overall service quality. While we are convinced that such a situation will not arise, due to the self-correcting mechanisms previously noted, we would be receptive to amending our rules at any time to include evaluation of network control signaling functions of registered terminal equipment and registered protective circuitry, or to provide for manufacturer attestation of compatibility, should evidence to the contrary become available.

24. The technical requirements pertaining to registered terminal equipment and registered protective circuitry are contained in Subpart D of Part 68, and are explained in the following paragraphs. The term "reasonable application of earth ground", which appears in several of the rules in Subpart D, deserves particular note. Because the connection of earth ground to registered terminal equipment and registered protective circuitry may cause noncompliance with several of the technical requirements, it is important that such registered terminal equipment and registered protective circuitry be properly insulated and isolated from any "reasonable application of earth ground". In evaluating equipment, the following guidelines should be followed:

a. For protective circuitry, "reasonable application of earth ground" shall include physical contact of all exposed surfaces of the circuitry with a conductor connected with earth ground, and of physical contact of each non-telephone line connection with a conductor connected with earth ground, and with all possible combinations thereof;

b. For terminal equipment, "reasonable application of earth ground" shall include all reasonably foreseeable possibilities whereby earth ground may become connected with such equipment, including the possibility of physical contact of all exposed surfaces with a conductor connected with earth ground, the possibility of connection with earth ground of each power-line connection, and the possibility of connection with earth ground through foreseeable connection with other equipment.[14]

25. *Environmental Stress Simulation.* Registered terminal equipment and registered protective circuitry will be subjected to various environmental conditions during shipment and usage, and accordingly we have required, in Section 68.302, that harm does not arise in registered equipment either prior to, or after the application of therein-specified stresses.

26. The specified requirements on vibration, temperature and humidity cycling are directly in accord with the requirements on such cycling presently effective for conferencing devices, and are similar to those employed for Authorized Protective Connecting Modules (APCMs) used with answering devices, both of which equipment classes are presently directly connected with telephone facilities.[15]

27. The specification of the metallic voltage surge parameter is derived from

[11] *Hush-A-Phone* v. *U.S.*, 238 F. 2d 266, 268–69 note 9 (D.C. Cir. 1956).

[12] *See* Docket No. 19419 Tr. 3980–85; 3987–93; 4328–29; 4546–50; 4552–54; 4561–65; 4969–73, Testimony of L. Hohmann. Tariff F.C.C. No. 263, § 2.6.3.

[13] Section 68.110(a) imposes the requirement that the carriers supply compatibility information upon request; to the extent that such informational materials effect compliance with this rule, no additional action by the carriers will be necessary.

[14] Foreseeable additional connection, must include all expected possibilities, such as accessory sockets (e.g. an earphone jack).

[15] Similar requirements are recommended in our advisory committee reports, and in such reports detailed instructions on specific implementing tests are contained.

two presently-effective programs. The requirement imposed on conferencing devices is that a 1000 volt peak surge, having a 10 micro second rise time to crest and a 1000 microsecond decay time to half crest be applied to the tip and ring telephone connections during the off-hook state.[16] The requirement applied to APCMs is defined in terms of a test circuit which applies similar surges.

28. Various specifications of the longitudinal voltage surge parameter were suggested to us. The requirement imposed on conferencing devices is that three 2500 volt peak surges of each polarity, having a 1.2 microsecond rise time to crest and a 50 microsecond decay time to half crest be applied between all telephone connections, connected together, and earth ground, under all reasonable conditions of connection of the terminal equipment with earth ground. The Joint Board recommended the use of such a surge only where external power is supplied to terminal equipment.[17] Our answering device committee recommended that such a specification be applied to power-line connections of that type of terminal equipment (and further recommended that testing be conducted in stages—first by pulsing at 500 volts, then 1500 volts and finally at 2500 volts). The similar specification for APCMs is defined in terms of a test circuit which charges a 0.1 microfarad capacitor to 2500 volts, and which then discharges that capacitor through a 60 microhenry coil (dc resistance less than 2.0 ohms) to the tip and ring connections of the terminal equipment, across which is connected a resistance of approximately 132 ohms. Such a circuit applies a longitudinal voltage surge of approximately 2 microseconds rise time to crest and 10 microseconds decay time to half crest to the APCM under two conditions of test: first, with the non-telephone connections grounded and the pulse applied to the telephone connections, and second, with the telephone connections grounded and the pulse applied to the non-telephone connections. In both tests, ground connections are made through a 14 microhenry coil, and the current through this coil is required to be less than 0.3 amperes, peak.

29. The purpose of stressing terminal equipment with longitudinal surges is to determine whether such equipment will continue to conform to our technical requirements if it is subjected to a voltage surge resulting from lightning. Since lightning may affect either an exposed telephone connecton, or an exposed power connection to the terminal equipment, the APCM techniques of requiring testing by simulating a lightning-caused voltage surge on both sets of connections has merit, and we have adopted this approach. Thus, our rule requires that 2500 volt peak surges of each polarity, having a 2 microsecond rise time to crest and a 50 microsecond decay time to half crest (formed as the worst-case combination of the APCM and other specifications) be applied *first* between the telephone connections and earth ground, under all possibilities of connection of the equipment with earth ground, and *second* between each power line connection and earth ground, and between each conductive surface on the exterior of the equipment and earth ground, with the telephone connections individually, and in combination, connected to earth ground.

30. *Leakage Current Limitations.* Registered terminal equipment and registered protective circuitry are required to be adequately insulated, to protect against telephone facilities becoming connected with power-line energy (hazardous voltages) and earth ground (longitudinal imbalance). While it is desirable to maintain perfect insulation between the telephone connections and power-line and/or ground, such insulation must be specified in terms of leakage current under the application of test voltages. We have had various specifications of such leakage current recommended to us.

31. The Joint Board recommended that 1500 volts, 60 Hertz, be applied to all possible combinations of interface leads, power leads, exposed conducting surfaces and common circuit ground and that the leakage current resulting therefrom be limited to 2.5 milliamperes, rms,[18] only in the case of equipment which is externally powered. California has required that leakage current in each of two test cases be limited to 2.5 milliamperes: (1) when 1500 volts is applied between telephone connections and power connections, and between power connections and exposed surfaces, and (2) when 1000 volts is applied between telephone connections and exposed surfaces.[19] In addition, California independently requires that power transformers have a voltage breakdown rating greater than 1500 volts between primary and secondary and between the transformer windings and (chassis) ground.[20]

32. The requirement on conferencing devices[21] is that leakage current from the telephone connections, strapped together, to exposed conductive surfaces (on the housing) and earth ground be less than 2.5 milliamperes under the application of 1000 volts, rms, 60 Hertz between the points under test (the specific test required is to gradually increase the test voltage from 0 to 1000 volts over a thirty second time period, apply the full 1000 volts for one minute, and then determine the leakage current after this 1½ minute time interval). The APCM specification separately tests the dielectric insulation on the APCM's internal isolating transformer, and the APCM's housing insulation. In the first case, 750 volts, rms, 60 Hertz is applied for sixty seconds between the telephone connections (connected together) and earth ground, with all non-telephone connections and conductive surfaces on the housing of the APCM also connected to earth ground, and the leakage current is required to not exceed 0.5 ma, rms. In the second case, 1500 volts, rms, 60 Hertz is applied for sixty seconds between the telephone and non-telephone connections (all connected together) and earth ground, with conductive surfaces on the housing of the APCM also connected to earth ground, and the leakage current is similarly required to not exceed 0.5 ma, rms.

33. Our answering device committee recommended two separate requirements: first, that leakage between the telephone connections (connected together) and power connections not exceed 2.5 ma, rms., under the application of 1500 volts, rms, 60 Hertz, and second, that leakage between the telephone connections and all exposed conductive surfaces on the housing of such terminal equipment not exceed 2.5 ma, rms, under the application of 1000 volts, rms, 60 Hertz. Finally, our dialer committee recommended a slightly modified version of the answering device committee's specification whereby leakage current is required to not exceed 2.5 ma, rms, first, between the telephone connections and earth ground, and second, between the power connections and earth ground, under the application of 1000 volts, rms, 60 Hertz and 1500 volts, rms, 60 Hertz, respectively. The dialer committee also recommended that the 1500 volt test requirement be dispensed with for equipment not connected to an external source of power.

34. The only case of a leakage current specification lower than 2.5 ma, rms, having been employed has been the APCM specification. AT&T's use of the 2.5 ma, rms, specification for conferencing devices (which predates the answering device tariff exception), as well as the consistent use of this figure by our advisory committees and by the Joint Board and California, convinces us that 2.5 ma, rms, is a reasonable leakage current limit. As the Joint Board's requirement of determining leakage current under the application of 1500 volts, rms, for all possibilities of leakage current (power line to telephone connections, power line to exposed conductive surfaces, and telephone connections to exposed conductive surfaces) is inclusive of possible lower test voltages for some of these leakage current paths, we are adopting the Joint Board's uniform use of 1500 volts, rms, for evaluation, with the proviso that leakage current tests be performed on terminal equipment regardless of whether it is connected to an external power source.

35. *Hazardous Voltage Limitations.* Section 68.306 sets forth "fail safe" requirements on hazardous voltage. The stated limits are generally employed throughout the telephone industry as

[16] This specification was also contained in our advisory committee report on answering devices.

[17] Section 68.304(b) of the Recommended First Report and Order of the Federal-State Joint Board.

[18] Joint Board First Report and Order, § 68.304(c) and (d).

[19] California General Order No. 138, § 5.4 (c).

[20] *Ibid.*, § 5.3(a).

[21] Section 6.3.2 of Bell System Voice Communications Technical Reference, PUB 45101, "Interface Specification 2001 (Non-Powered Conferencing Devices)", May 1973.

voltage limitations below which special protection of telephone craft personnel is not required. Equipment must be designed to avoid the application of voltages exceeding these limits under normal operation, since our other technical rules specify that permissible metallic ac voltages in normal operation, are defined by the signal power limitations (which are on the order of one volt, rms). The hazardous voltage limits are worst-case equipment failure limitations, and evaluation of equipment for compliance with these limits requires an analysis of all foreseeable failure modes of the registered terminal equipment or registered protective circuitry, and of equipment which is reasonably expected to be connected thereto. Subsection (b) of this rule defines what we expect to be a worst-case failure mode of equipment which might be connected with registered protective circuitry—the application of commercial power line voltage. We have chosen to require evaluation of the effects of applying 220 volts, rms, to protective circuitry in recognition of the usage of such power in data processing installations and commercial wiring, and in the belief that power sources which are reasonably expected to be available at locations where registered terminal equipment and registered protective circuitry will be employed will not exceed 220 volts, rms.

36. The specific limits which we have chosen conform to the recommendations of our PBX Advisory Committee and to AT&T's statements in a pending proceeding, Docket No. 19419, wherein AT&T stated the limits it employs for voltages permitted on its telephone plant. In Docket No. 19419, AT&T testified that the allowable voltage levels for continuous ac voltages are 70 volts, peak,[23] and for continuous dc voltages the limit is 135 volts to ground.[24] Our PBX Advisory Committee has recommended the following voltage limits between telephone conductors: 71 volts, peak ac, 135 volts, dc, 142 volts, peak for combined ac and dc; and the following voltage limits between a telephone connection and ground: 71 volts, ac, 135 volts, dc, 71 volts, peak for combined ac and dc. We have specified voltage limits which conform to both the PBX Advisory Committee's recommendation, and to AT&T's statement, as follows: between telephone conductors: 70 volts, peak ac, 135 volts, dc, 140 volts, peak for combined ac and dc; and between a telephone connection and ground: 70 volts, peak ac, 135 volts, dc, 70 volts, peak for combined ac and dc.

37. *Signal Power Limitations.* Signal power in the 300–3995 Hertz band is required to conform to two different criteria: (1) the three second averaged power, measured at a customer's premises is required not to exceed 1.00 milliwatt, and (2) the three second averaged power measured at a telephone company central office is required not to exceed 12 decibels below 1.00 milliwatt.[25] The first of these specifications is constant for all installations, whereas the second is variable, as different local loop attenuations will permit equipment at the customer's premises to apply differing maximum signal power levels at the premises without violating the central office power level limitation.

38. In the case of voice usage of the telephone network, the telephone companies have chosen to employ physical protection within their connecting arrangements only against violations of the first criterion above, i.e. the 1.00 milliwatt limitation measured at the customer's premises.[26] Since there has been no evidence of problems arising from this telephone company practice, our rule follows this approach.

39. The telephone companies have argued that data equipment does not necessarily use telephone facilities in the same manner as does voice equipment; i.e. that data signals do not follow the statistical patterns of voice signals and tend to present constant amplitude tones. They also argue that data signals of excessive power have a higher potential for causing loss of communications privacy of other telephone network users than would voice signals of similar excessive power, and that data users have some incentive to violate the power level limitations in order to lower their data error rates. Data equipment manufacturers have argued that there is no incentive for users to exceed the power level limitations as degradation to their data communications service may result, and that the telephone companies' suppositions have not been substantiated.[26] We are taking no position as to the validity of these arguments, as this is at issue in a pending proceeding, Docket No. 19419. We note, however, that the carriers' present data access arrangements provide assurance of compliance with both sets of power limitations, the 1.00 milliwatt customer's premises limitation and the 12 decibel lower central office power limitation. Pending the outcome of Docket No. 19419, and expressly subject to the ultimate findings and conclusions which may be reached therein, we are establishing rules for connection of data terminal equipment which maintain the *status quo*. Our rules accept AT&T's proposals for dealing with data equipment signal power levels, as a practical and reasonable means of providing such protection.

40. A data equipment manufacturer is given the option of either designing its terminal equipment, or protective circuitry, to assure that data signal power levels do not exceed a universal, fixed level of −4 dB with respect to one milliwatt, measurable at a simulation of the interface, or, if it wishes to optimize performance of equipment on each specific telephone line to which it may be connected, it has the option of designing terminal equipment, or protective circuitry, to assure that the data signal power level does not exceed the particular, unique level, which that telephone line permits without exceeding the −12 dB central office limitation. Again, following AT&T's proposal, we are adopting the requirement of using a design of such equipment or circuitry which is capable of responding to information which the carrier will provide as to the particular permitted signal power level for each telephone line to which the customer intends to connect data equipment. The carrier will determine the particular permitted power for each telephone line for which it receives notification that its customer intends to connect data equipment to a Programmable Data Jack, and will make appropriate connections in the Jack to communicate this information, automatically, to the data equipment, thereby removing the possibility of improper adjustment of the signal power. The specific evaluation required by § 68.308(b)(2) assures that registered data terminal equipment, or registered data protective circuitry will appropriately respond to the information provided it by the Programmed Data Jack.

41. *Longitudinal Balance Limitations.* Section 6.310 sets forth minimum requirements on longitudinal balance. Longitudinal balance of terminal equipment depends upon the degree of balance of the impedance of the tip and ring connections of the terminal equipment to earth ground. Thus, evaluation of terminal equipment and protective circuitry designs for conformance to the longitudinal balance requirements must include consideration of all foreseeable possibilities of connection of such equipment and circuitry with earth ground.

42. We have received several different suggestions for an appropriate specification for longitudinal balance. The Joint Board and California recommended that each of the voltages on the two telephone connections (tip and ring) with respect to earth ground not differ by more than one percent, in the voice frequency band. Conferencing devices are required to maintain longitudinal balance, as given by the parameter we have defined in our "Definitions" section, greater than $(120-20\log_{10}\text{frequency})$ over the frequency range of 60 to 4000 Hertz, which is about 85 decibels at 60 Hertz and 48 decibels at 4000 Hertz.[27] Our answering

[23] "Peak" voltage is intended to mean one-half the peak-to-peak amplitude excursion of an alternating voltage waveform.

[24] Bell Exhibit No. 5 in Docket No. 19419, testimony of L. Hohmann.

[25] Tariff F.C.C. No. 263, Message Telecommunications Service, Section 2.6.4.

[26] This has been done on the theory that due to the statistical nature of human speech, and disincentive to violate maximum power level requirements when humans are speaking, prohibitory language concerning the remaining power limitation which is contained within the tariffs, and in informational material distributed to equipment manufacturers ("Technical References") provides adequate protection.

[26] These arguments have been advanced both in this proceeding and in Docket No. 19419.

[27] Section 6.3.5 of Bell System Voice Communications Technical Reference, PUB 45101, "Interface Specification 2001 (Non-Powered Conferencing Devices)", May 1973.

devices advisory committee recommended that this same balance parameter exceed 40 decibels over the 60 to 4000 Hertz frequency range, and specified a particular test circuit for determining balance in accordance with this parameter. Our PBX advisory committee also recommended a minimum balance of 40 decibels over the 300 to 3400 Hertz frequency range.

43. We are rejecting the specification advanced by the Joint Board which is ambiguous. This specification is stated in terms of percentage, without stating the base on which such percentage is to be computed. Proper design of equipment intended for connection to the switched telephone network requires that essentially no longitudinal voltage be applied by terminal equipment at the interface. The ambiguous specification employed by the Joint Board will not necessarily insure this.

44. The longitudinal balance parameter which we have defined has been used by our advisory committees, and by the telephone companies in setting requirements on conferencing devices. We have also defined the balance parameter in terms of a particular test circuit which may be applied to terminal equipment to further remove ambiguity. This test circuit was advanced by our answering device advisory committee in its report.[25] In our view, the answering device advisory committee's requirement of testing longitudinal balance with an applied longitudinal voltage of 12.5 volts, rms (that is, by applying equal voltages of 25 volts, rms, to tip and ring) is sound, as semiconductors which only enter the "active" state on the application of a sufficiently high test voltage will thereby be activated. The remainder of the advisory committee's test circuit flows from the definition of the balance parameter. Finally, we have adopted the balance requirement which the telephone companies have required of conferencing devices. Such devices are presently exempt from the general tariff requirement of connection solely through a protective connecting arrangement which prevents longitudinal imbalance from affecting a telephone line. The telephone companies' reqirement on conferencing devices is a clear and unambiguous statement by them of what they consider acceptable. Thus, the longitudinal balance is required to exceed $(120-20 \log_{10} \text{frequency})$ at all frequencies in the band 60 to 4000 Hertz.

45. *On-hook Impedance limitations.* As previously noted, we are persuaded that protection against improper network control signaling is not generally required. However, there is a need to impose conditions on one aspect of network control signaling—the on-hook impedance. If a telephone call is made to a telephone line to which an excessively low impedance is connected, or to a telephone line which causes excessive dc current to flow during the application of a ranging signal, the called party's central office will immediately cause the ringing signal to cease. The calling party will hear no audible ringing tone (a "ringback" tone) and will assume that the call did not go through.[26] We are persuaded by the carriers' arguments that after several repeated tries to complete such a call, the caller will usually involve telephone company repair personnel. To prevent this non-productive use of telephone facilities, we are requiring assurance that on-hook impedances (the impedances presented to a ringing signal) are adequately controlled.

46. However, the particular permitted on-hook impedance on any given telephone line is variable, and depends upon such factors as the length of the line, the type of central office, and the electrical characteristics of the line (and in the case of PBX trunk connections, may depend on whether or not double-speed dialing is to be used). Normal telephone lines may be connected with one to five paralleled standard telephone ringers, depending upon these factors. The telephone companies have dealt with this requirement by rating each telephone line for the maximum number of "ringing bridges", or paralleled standard ringing impedances, through the use of tables which account for the factors involved in such a determination.[27] When a telephone company customer requests that additional equipment be provided by the telephone company (including equipment such as a connecting arrangement), the telephone company determines whether the addition of such equipment will exceed the "ringing bridge" limitation on the customer's telephone line.

47. We have established a similar mechanism for all terminal equipment. Section 68.312(b) requires that a determination be made as to the equivalent number of standard telephone ringers (the Ringer Equivalence Number), which one unit of registered terminal equipment or registered protective circuitry represents.[28] The customer merely adds the number of ringers which are connected to a telephone line to the Ringer Equivalency Number which will appear on the label[29] of registered terminal equipment or registered protective circuitry which he may wish to connect. The sum must not exceed the "ringing bridge" maximum which the telephone company specifies for his particular line. This technique imposes no additional record-keeping requirements on the telephone companies as it follows their already-established practices. At the same time, it provides some added flexibility to equipment manufacturers, as they are not limited to using the *same* impedances as the telephone companies' telephone sets now use—they may use higher impedances and thereby permit more equipment to be connected to a customer's telephone line.

48. Our specific test requirements are drawn from the telephone companies' submitted ringer impendance curves and from comments of the telephone companies on the answering device advisory committee's report. Since the telephone companies have provided us with magnitude-impedance versus frequency curves which were obtained through the use of a 10 volt, rms, test oscillator, we have similarly required that determinations of magnitude-impedance be made using a 10 volt source. The advisory committee report specified 1.5 ma as the maximum permitted dc current to be drawn by a ringing impedance during the application of a simulated ringing signal, and we have adopted this specification. As General Telephone and Electronics had commented that their central offices use ringing signals in the frequency range of 16⅔ to 66⅔ Hertz, and ringing voltages that might be as high as 75 volts dc superimposed on 100 volts, rms, we have adopted these parameters as an inclusive specification which is slightly more stringent than AT&T's use of 20 or 30 Hertz ringing signals at slightly lower voltages.

STANDARD PLUGS AND JACKS

49. Section 68.104 requires that, except for telephone company-provided ringers, all terminal equipment be connected to the telephone network through standard plugs and jacks. Telephone company-provided ringers are excepted so as to permit a customer to have a permanently connected ringer not subject to accidental disconnection. The general requirement for standard plugs and jacks is based on the assumption that any user will be able to plug in terminal equipment without special installation instructions or training. By imposing this requirement, we believe it is unnecessary to impose special requirements pertaining to installation of registered equip-

[25] *See* § 5.10 of the Advisory Committee Report on Answering Devices, May 21, 1973.

[26] *See* Bell Ex. 5 and Tr. 4004–05 in Docket No. 19419 for discussion of "pretrip" and "false trip" and the expected effects thereof.

[27] Section 812–015–170 of the Bell System Practices, AT&T Company Standard, Issue 2, June 1972 "Ringing Ranges and Ringing Bridge Limitations for Lines in Dial Offices"; Section 471–100–040 of the General System Practices, GT&E Standard, Issue 1, January 1968 "Line Leakage and Ringing Bridge Limitations". Official notice of both of these documents is hereby taken.

[28] Figure 1 of § 68.216(a) of the Joint Board's Recommended First Report and Order is an incorrect (and ambiguous) graph of a standard ringing impedance. This graph was first published by our answering devices advisory committee in its draft and final reports on requirements for such devices during 1973, and was (apparently) reproduced by the Joint Board. AT&T and GTE both maintained at the time of publication of the answering devices report, and in their comments on the Joint Board Report that the curve was incorrect, but until we informally requested that a correct curve be furnished, no such curve was supplied. In furnishing a corrected curve, AT&T and GTE indicated that in order to provide such information, they recently ran laboratory tests specifically to derive the correct curve.

[29] Section 68.300(a) of our rules requires that the Ringer Equivalency Number, determined in accordance with § 68.312, be displayed on the equipment label.

ment.[33] We have purposefully declined to prescribe specific standard plugs and jacks, including a Programmed Data Jack design, in the belief that acceptable designs will be voluntarily arrived at by cooperative action between the carriers and the terminal equipment industry.

If jointly sponsored designs for standard plugs and jacks are not expeditiously arrived at, we will prescribe specific designs. We will require that any entity be permitted to manufacture and supply standard plugs for use with registered terminal equipment and registered protective circuitry, without being subject to licensing by a telephone company and without any other telephone company-imposed restrictions.

NOTIFICATION TO TELEPHONE COMPANY

50. We have included a requirement that any customer desiring to connect terminal equipment to the telephone network must give notice to the telephone company. This will allow the telephone company to keep complete and accurate records of all equipment connected to each telephone line, and will aid in the performance of both routine maintenance and repairs. It will also enable the telephone companies to have at their disposal certain statistical information regarding interconnection (which may at a future date be required to be furnished this Commission). Since the notification to the telephone company includes the F.C.C. Registration Number, this information will enable the telephone company to identify all customers using a particular type of registered equipment, if it should become necessary to notify such customers, in special circumstances such as revocation of an equipment registration number. Furthermore, since the notification also includes the Ringer Equivalence Number, the telephone company will be able to inform its customers as to whether such registered equipment may be connected to the telephone line without exceeding the ringing bridge limitation (maximum number of ringers which may be connected) for that telephone line.

INCIDENCE OF HARM

51. Although our rules are designed to assure that no harm from terminal equipment will ever reach the telephone network, Section 68.108 gives the telephone company the right to temporarily discontinue a customer's service, should any harm to the telephone network be caused by such customer's terminal equipment. Assuming full compliance with all the rules and regulations in Part 68, we would expect that no such temporary discontinuances would occur; however, out of extreme caution, we believe that the telephone company should have the option available to it of temporarily discontinuing a customer's service, should the facts of a given situation clearly warrant such extreme action. If a complaint is brought against the telephone company as a result of a temporary discontinuance, the telephone company will have the burden of providing that such action was reasonable.

REPAIR OF EQUIPMENT

52. Section 68.216 sets forth our requirements on the repair of registered terminal equipment and registered protective circuitry.[34] In order to maintain the level of assurance accorded by the design and manufacture of such equipment, repairs must be performed by the manufacturer or assembler of such equipment or by their authorized agent. However, we will allow routine repairs, such as fuse replacement, the changing of a pilot lamp, etc., to be performed by users, where the manufacturer or assembler satisfactorily demonstrates that the performance of such routine repairs will not result in a violation of the requirements of Subpart D of our rules. This limited exception, however, is to be construed narrowly, as we do not wish it to open the door to uncontrolled maintenance activities which may have some effect upon compliance with our technical requirements.[35]

REGISTRATION PROCEDURES

53. Subpart C of the rules contains all the rules governing the procedures to be followed in registering terminal equipment and protective circuitry. These rules have been designed to insure that the Commission retains complete control over the registration program, while at the same time the required interaction between industry and the Commission is reduced to a minimum. We have accomplished this by adopting a plan whereby equipment sought to be registered is to be tested by the manufacturer or assembler rather than the government with the test results submitted along with the application for registration. While we do not expect that the administration of this program will routinely entail physical examination and/or testing of terminal equipment or protective circuitry, the Commission specifically reserves the right to do so upon complaint or upon its own motion. We feel that this approach is simple and efficient from a regulatory point of view and will entail a minimum of administrative and other expenses.

54. While we have provided that applications for registration will be placed on public notice, we wish to stress that we will not permit this procedure to become a means for delaying registration grants. All comments must be supported by relevant data and address the capability of the equipment or circuitry to comply with the technical requirements of Subpart D. Comments addressing other issues will not be entertained. In setting forth the rules relating to registration procedures, we have not specified the particular form an application should take nor have we indicated appropriate fees for registration. These, and other procedural matters will be addressed in future orders prior to the effective date of these rules.

CONCLUSION

55. We conclude that the Federal registration program described above and set out in the appendix hereto will provide the necessary protection for the telephone network from harms caused by the connection of terminal equipment thereto, and that adoption of this program will serve the public interest. In view of the action we are taking herein, i.e., adoption of a Federal registration program applicable to all classes of terminal equipment, we have further concluded that the proceedings in Docket No. 19528 should be terminated. However, as the registration program established herein is new, we believe it should be subject to continuing review and modification, if necessary, as actual experience under the program warrants. Accordingly, the Commission will continue to confer, as appropriate, with state commissions concerning those interconnection matters over which the state commissions and this Commission have jurisdiction.

ORDER

56. In view of the foregoing, *It is hereby ordered*, pursuant to Sections 4(i), 4(j), 201–205, 208, 215, 218, 313, 314, 403, 404, 410 and 602 of the Communications Act that the Commission's Rules and Regulations are amended by adding a new Part 68 as shown in the appendix hereto, effective April 1, 1976.[36]

57. *It is further ordered*, That the pleadings mentioned in paragraph 4 above are DENIED and the pleadings mentioned in paragraph 5 above are dismissed.

58. *It is further ordered*, That interested parties may file comments not later than December 11, 1975, directed to the planned inclusion of PBXs, key telephone systems and main station telephones in our registration program.

59. *It is further ordered*, That AT&T revise its Tariffs F.C.C. Nos. 259 (WATS) and 263 (MTS), on not less than 60 days notice, in accordance with the requirements of this Report and Order, to be

[33] We note that this approach has already been adopted by the telephone carriers' attestation program for headsets and non-powered conferencing devices, by their conformance program for answering devices, and by their long standing practice of providing portable extension telephones.

[34] Section 68.216 is in no way intended to limit a user's ability to repair any parts in terminal equipment other than registered protective circuitry.

[35] We would note that where registered protective circuitry is fabricated on a plug-in subassembly in such manner that by no foreseeable failure to properly insert or remove such a subassembly, can a violation of the requirements of Subpart D of these rules occur, then we would consider the limited exception to this rule as applicable if the user "repairs" failed registered protective circuitry by plug-in replacement.

[36] Part 68 of the Commission's Rules and Regulations is not applicable to terminal equipment connected to the telephone network prior to the effective date of these rules.

effective on the effective date of the rules in Part 68.

(Secs 4, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602, 48 Stat. as amended, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 154, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602)

Adopted: October 31, 1975.

Released: November 7, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[*]
VINCENT J. MULLINS,
Secretary.

The Commission's rules and regulations (Chapter I of Title 47 of the Code of Federal Regulations) are amended by the addition of a new Part 68 as follows:

Subpart A—General

Sec.
68.1 Purpose.
68.2 Scope.
68.3 Definitions.

Subpart B—Conditions on Use of Terminal Equipment

68.100 General.
68.102 Registration requirement.
68.104 Standard plugs and jacks.
68.106 Notification to telephone company.
68.108 Incidence of harm.
68.110 Compatibility of the telephone network and terminal equipment.

Subpart C—Registration Procedures

68.200 Application for equipment registration.
68.202 Public notice.
68.204 Comments and replies.
68.206 Grant of application.
68.208 Dismissal of application.
68.210 Denial of application.
68.212 Assignment of equipment registration.
68.214 Changes in registered terminal equipment and registered protective circuitry.
68.216 Repair of registered terminal equipment and registered protective circuitry.
68.218 Responsibility of grantee of equipment registration.

Subpart D—Conditions for Registration

68.300 Labelling requirements.
68.302 Environment simulation.
68.304 Leakage current limitations.
68.306 Hazardous voltage limitations.
68.308 Signal power limitations.
68.310 Longitudinal balance limitations.
68.312 On-hook impedance limitations.
68.314 Minimum call duration requirements.

Subpart E—Complaint Procedures

68.400 Content.
68.402 Amended complaints.
68.404 Number of copies.
68.406 Service.
68.408 Answers to complaints and amended complaints.
68.410 Replies to answers or amended answers.
68.412 Defective pleadings.

Subpart A—General

§ 68.1 Purpose.

The purpose of the rules and regulations in this Part is to provide for uniform standards for the protection of the telephone network from harms caused by the connection of terminal equipment thereto.

§ 68.2 Scope.

The rules and regulations in this Part apply to the direct connection of all terminal equipment other than coin telephones to the telephone network after the effective date of these rules, for use in conjunction with all services other than party line service. Terminal equipment as used in this Part includes terminal equipment and/or systems. *Note*: Pending further proceedings, the rules and regulations in this Part do not apply to PBXs, key telephone systems, or main station telephones.

§ 68.3 Definitions.

As used in this part:

"Direct Connection." Connection of terminal equipment to the telephone network by means other than acoustic and/or inductive coupling.

"Harm." Electrical hazards to telephone company personnel, damage to telephone company equipment, malfunction of telephone company billing equipment, and degradation of service to persons other than the user of the subject terminal equipment, his calling or called party.

"Interface." The point of interconnection between terminal equipment and telephone company communication facilities.

"Longitudinal Balance." The ratio of the absolute value of longitudinal voltage divided by metallic voltage in decibels (voltage) with the magnitudes of the longitudinal and metallic voltages obtained as follows:

(1) A longitudinal voltage of 12.5 volts, r.m.s. is impressed;

(2) No metallic voltage is impressed; and

(3) The metallic voltage resulting from imbalance of the equipment is determined over a sufficient number of permutations of frequency and simulated loop current to specify the longitudinal balance of the equipment under test over frequency and loop current.

(Note: The first two requirements are met if means are employed by test equipment to impress equal voltages with respect to earth ground on tip and ring of 25 volts, r.m.s.)

"Longitudinal Voltage." One half the sum of the potential difference between the tip connection and earth ground, and the ring connection and earth ground.

"Loop Simulator Circuit." A circuit consisting of a current source, variable from 20 to 160 milliamperes d.c. in parallel with an impedance consisting of 900 ohms ±1% in series with 2.14 microfarads ±1%. Equipment connected to the loop simulator circuit shall be paralleled with this impedance, and tests shall be conducted over the full range of variation of the current source, both polarities, with sufficient time allowed for the 2.14 microfarad capacitor to charge to a steady-state condition.

"Metallic Voltage." The potential difference between the tip and ring connections.

"Registered Protective Circuitry." Separate, identifiable and discrete electrical circuitry designed to protect the telephone network from harm, which is registered in accordance with the rules and regulations in Subpart C of this Part.

"Registered Terminal Equipment." Terminal equipment which is registered in accordance with the rules and regulations in Subpart C of this part.

"Telephone Network." The public switched telephone network.

Subpart B—Conditions on Use of Terminal Equipment

§ 68.100 General.

Terminal equipment may be directly connected to the telephone network in accordance with the rules and regulations in Subpart B of this Part.

§ 68.102 Registration requirement.

Terminal equipment must be registered in accordance with the rules and regulations in Subpart C of this Part, or connected through registered protective circuitry, which is registered in accordance with the rules and regulations in Subpart C of this Part.

§ 68.104 Standard plugs and jacks.

(a) *General.* Except for telephone company-provided ringers, all connections to the telephone network shall be made through standard plugs and standard telephone company-provided jacks, in such a manner as to allow for easy and immediate disconnection of the terminal equipment. Standard jacks shall be so arranged that, if the plug connected thereto is withdrawn, no interference to the operation of equipment at the customer's premises which remains connected to the telephone network, shall occur by reason of such withdrawal.

(b) *Programmable standard plugs and jacks.* Where a customer desires to connect data equipment which has been registered in accordance with § 68.308(b)(2), he shall notify the telephone company of each telephone line to which he intends to connect such equipment. The telephone company, after determining the attenuation of each such telephone line between the interface and the telephone company central office, will make such connections as are necessary in each Programmed Data Jack which it will install, so as to allow the maximum signal power delivered by such data equipment to the telephone company central office to reach but not exceed the maximum allowable signal power permitted at the telephone company central office.

§ 68.106 Notification to telephone company.

Customers connecting terminal equipment to the telephone network shall, before such connection is made, notify the telephone company that such connection is being made and shall provide to the telephone company the F.C.C. Registration Number and the Ringer Equivalence Number of the registered

[*] Commissioner Reid absent. Commissioners Hooks and Robinson statements filed as part of the original.

terminal equipment or registered protective circuitry.

§ 68.108 Incidence of harm.

Should terminal equipment cause harm to the telephone network, the telephone company shall, where practicable, notify the customer that temporary discontinuance of service may be required; however, where prior notice is not practicable, the telephone company may temporarily discontinue service forthwith, if such action is reasonable in the circumstances. In case of such temporary discontinuance, the telephone company shall (1) promptly notify the customer of such temporary discontinuance, (2) afford the customer the opportunity to correct the situation which gave rise to the temporary discontinuance, and (3) inform the customer of his right to bring a complaint to the Commission pursuant to the procedures set out in Subpart E of this Part.

§ 68.110 Compatibility of the telephone network and terminal equipment.

(a) *Availability of interface information.* Technical information concerning interface parameters not specified in this Part, including the number of ringers which may be connected to a particular telephone line, which is needed to permit terminal equipment to operate in a manner compatible with telephone company communications facilities, shall be provided by the telephone company upon request.

(b) *Changes in telephone company facilities, equipment, operations or procedures.* The telephone company may make changes in its communications facilities, equipment, operations or procedures, where such action is reasonably required in the operation of its business and is not inconsistent with the rules and regulations in this Part. If such changes can be reasonably expected to render any customer's terminal equipment incompatible with telephone company communications facilities, or require modification or alteration of such terminal equipment, or otherwise materially affect its use or performance, the customer shall be given adequate notice in writing, to allow the customer an opportunity to maintain uninterrupted service.

Subpart C—Registration Procedures

§ 68.200 Application for equipment registration.

(a) An original and four copies of an application for registration of terminal equipment and protective circuitry shall be submitted to the Federal Communications Commission, Washington, D.C. 20554, and include the following information:

(1) Name of applicant;

(2) A statement whether applicant is the manufacturer or assembler of the equipment or a vendor or user other than the manufacturer or assembler (include the name of the manufacturer or assembler);

(3) A statement that the terminal equipment or protective circuitry complies with and will continue to comply with the rules and regulations in Subpart D of this Part, accompanied by such test results, description of test procedures, analyses, evaluations, quality control standards and quality assurance standards as are necessary to demonstrate that such terminal equipment or protective circuitry complies with and will continue to comply with all the rules and regulations in Subpart D of this Part.

(4) The instruction manual for the terminal equipment or protective circuitry, if such manual contains instructions for routine customer repairs, together with a statement certifying that such routine repairs will not result in noncompliance with the rules and regulations in Subpart D of this Part.

(b) Each application, including amendments thereto, shall be personally signed by the applicant if the applicant is an individual; by one of the partners if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association.

§ 68.202 Public notice.

(a) The Commission will issue public notices of the filing of applications for equipment registration and the grants thereof. No grant will issue before 20 days from the date of the public notice of the filing of the application.

(b) The Commission will maintain lists of equipment for which it has granted registration.

§ 68.204 Comments and replies.

Comments may be filed as to any application for equipment registration within 20 days of the date of the public notice of its filing. Replies to such comments may be filed within 10 days of the date of filing of such comments. All comments must be served on the applicant and all replies must be served on all parties filing comments.

§ 68.206 Grant of application.

(a) The Commission will grant an application for equipment registration if it finds from an examination of such application and other matter which it may officially notice, that the equipment will comply with the rules and regulations in Subpart D of this Part, or that such grant will otherwise serve the public interest.

(b) Grants will be made in writing showing the effective date of the grant and any special condition(s) attaching to the grant.

(c) Equipment registration shall not attach to any equipment, nor shall any equipment registration be deemed effective, until the application has been granted.

§ 68.208 Dismissal of application.

(a) An application which is not filed in accordance with the provisions of the Subpart will be dismissed unless accompanied by an appropriate request for waiver of the rules.

(b) Any application, upon written request, may be dismissed prior to a determination granting or denying the equipment registration requested.

(c) If an applicant is requested by the Commission to furnish any additional documents, information or equipment not specifically required by this Subpart, a failure to comply with the request within the time, if any, specified by the Commission will result in the dismissal of such application.

§ 68.210 Denial of application.

If the Commission is unable to make the finding specified in § 68.206 it will deny the application. Notification of the denial will include a statement of the reasons for the denial.

§ 68.212 Assignment of equipment registration.

Commission equipment registration may not be assigned, exchanged or in any other way transferred to another party, without prior written notice to the Commission.

§ 68.214 Changes in registered terminal equipment and registered protective circuitry.

No changes in registered terminal equipment and registered protective circuitry shall be made without prior written notice to the Commission. If such change in registered terminal equipment or registered protective circuitry results in any change in the information furnished the Commission pursuant to § 68.200, the grantee shall submit a revised application for equipment registration in accordance with § 68.200.

§ 68.216 Repair of registered terminal equipment and registered protective circuitry.

Repair of registered terminal equipment and registered protective circuitry shall be accomplished only by the manufacturer or assembler thereof or by their authorized agent; however, routine repairs may be performed by a user, in accordance with the instruction manual if the applicant certifies that such routine repairs will not result in noncompliance with the rules and regulations in Subpart D of this Part.

§ 68.218 Responsibility of grantee of equipment registration.

In applying for a grant of an equipment registration, the grantee warrants that each unit of equipment marketed under such grant will comply with all the rules and regulations in Subpart D of this Part.

Subpart D—Conditions for Registration

§ 68.300 Labelling requirements.

(a) Registered terminal equipment and registered protective circuitry shall have prominently displayed on an outside surface the following information in the following format:

Complies With Part 68, FCC Rules
FCC Registration Number
Ringer Equivalence Number

(b) Registered terminal equipment and registered protective circuitry shall also have the following identifying information permanently affixed thereto:

(1) Grantee's name.

(2) Model number, as specified in the registration application.

(3) Serial number.

§ 68.302 Environment simulation.

Registered terminal equipment and registered protective circuitry shall comply with all the criteria contained in the rules and regulations in this Subpart, both prior to and after the application of each of the mechanical and electrical stresses specified in this section.

(a) *Vibration.* Sinusoidal vibrations of 5 Hz to 300 Hz at either a 2.5g acceleration or with a maximum displacement of 0.8 inches, whichever produces the smaller g-force for a given frequency, with a logarithmic sweep rate of ½ octave per minute from 5 Hz to 300 Hz and then back to 5 Hz.

(b) *Temperature and humidity.* Cycling at any convenient rate through the following temperature and humidity conditions three times: 30 minutes at 150°F and 15 percent relative humidity, followed by 30 minutes at 90°F and 90 percent relative humidity, followed by 30 minutes at −40°F and any convenient humidity.

(c) *Shock.* If the weight of the unit in pounds plus ten times its volume in cubic feet is less than 20, dropping onto a cement support surface which is covered by a 1/16 inch layer of vinyl title, three times on each of its three axes from a height of 30 inches. Otherwise, lifting about a base surface edge until the base surface forms a 45-degree angle with the above support surface or the elevated edge attains a 4-inch height, whichever, is less, and then releasing and allowing to rotate and drop to the support surface ten times for each base surface edge.

(d) *Metallic voltage surge.* Three 1000 volt peak surges of a metallic voltage (of each polarity) having a 10 microsecond rise time to crest and a 1000 microsecond decay time to half crest.

(e) *Longitudinal voltage surge.* Six 2500 volt peak surges (three of each polarity) having a 2 microsecond rise time to crest and a 50 microsecond decay time to half crest applied: (1) between all telephone connections connected together and earth ground, under all reasonable conditions of application of earth ground; and (2) between each power line connection and earth ground, and between all possible combinations of power line connections and earth ground, with the telephone connections connected singly and in combination with earth ground. *Note:* For purposes of Subsection (e)(2), an external connection to the protective circuitry or terminal equipment which may, under equipment failure, become connected with a power line shall be deemed a power line connection.

§ 68.304 Leakage current limitations.

Registered terminal equipment and registered protective circuitry shall assure that, if a voltage source is connected to any two of the three following points:

(1) All telephone connections, connected together.

(2) All power connections, connected together.

(3) All possible combinations of exposed conductive surfaces on the exterior of such equipment or circuitry.

and is gradually increased from zero to 1500 volts, rms, 60 Hertz over a thirty second time period, and then applied continuously for 1 minute, the current in the mesh formed by the voltage source and these points shall not exceed 2.5 milliamperes, rms, at any time during this 90 second time interval, under all reasonable applications of earth ground to such equipment or circuitry.

§ 68.306 Hazardous voltage limitations.

(a) Under no condition of failure of registered terminal equipment or registered protective circuitry, or of terminal equipment connected thereto, shall (1) the open circuit voltages between any two telephone connections exceed 70 volts peak a.c., 135 volts d.c. or 140 volts peak for combined a.c. and d.c. potentials, steady-state, or (2) the potential difference between any telephone connection and earth ground, under all reasonable conditions of application of earth ground to the registered terminal equipment or registered protective circuitry, or equipment connected thereto, exceed 70 volts peak a.c., 135 volts d.c. or 70 volts peak for combined a.c. and d.c. potentials, steady-state.

(b) Registered protective circuitry shall conform to the requirements of subsection (a) when commercial 220 volts a.c., 60 Hertz power is connected between all combinations of terminal equipment connections and between each terminal equipment connection and earth ground, under all reasonable conditions of application of earth ground to such circuitry.

§ 68.308 Signal power limitations.

(a) *General.* Registered terminal equipment and registered protective circuitry shall assure that power, as averaged over any 3 second time interval, in the frequency range of 300–3995 Hertz, delivered to a loop simulator circuit, does not exceed 1.00 milliwatt.

(b) *Data equipment.* For data applications, registered terminal equipment and registered protective circuitry shall assure that power, as averaged over any 3 second time interval, in the frequency range of 300–3995 Hertz, delivered to a loop simulator circuit, does not exceed:

(1) .398 Milliwatts (−4 dB with respect to 1 Milliwatt), or

(2) A level set by means of connections in a Programmed Data Jack connected therewith, which level shall be programmed in each possible 1 dB step from −12 dB through 0 dB, with respect to 1 milliwatt.

(c) *Additional data equipment requirements.* For data applications, registered terminal equipment and registered protective circuitry shall assure that when an incoming telephone call is answered through the use of ringing signal detection circuitry, the signal power, as delivered into a loop simulator circuit, shall be limited to −55 dB with respect to 1 milliwatt for no less than 2 seconds.

§ 68.310 Longitudinal balance limitations.

Registered terminal equipment and registered protective circuitry shall assure that, under all reasonable conditions of application of earth ground to the registered terminal equipment or registered protective circuitry or equipment connected thereto, the longitudinal balance, in the frequency range of 60–4000 Hertz, exceeds [120–20 $\log_{10}$ (frequency, Hertz)] decibels if the registered terminal equipment or registered protective circuitry is connected to a loop simulator circuit.

§ 68.312 On-hook impedance limitations.

(a) Registered terminal equipment and registered protective circuitry shall assure that:

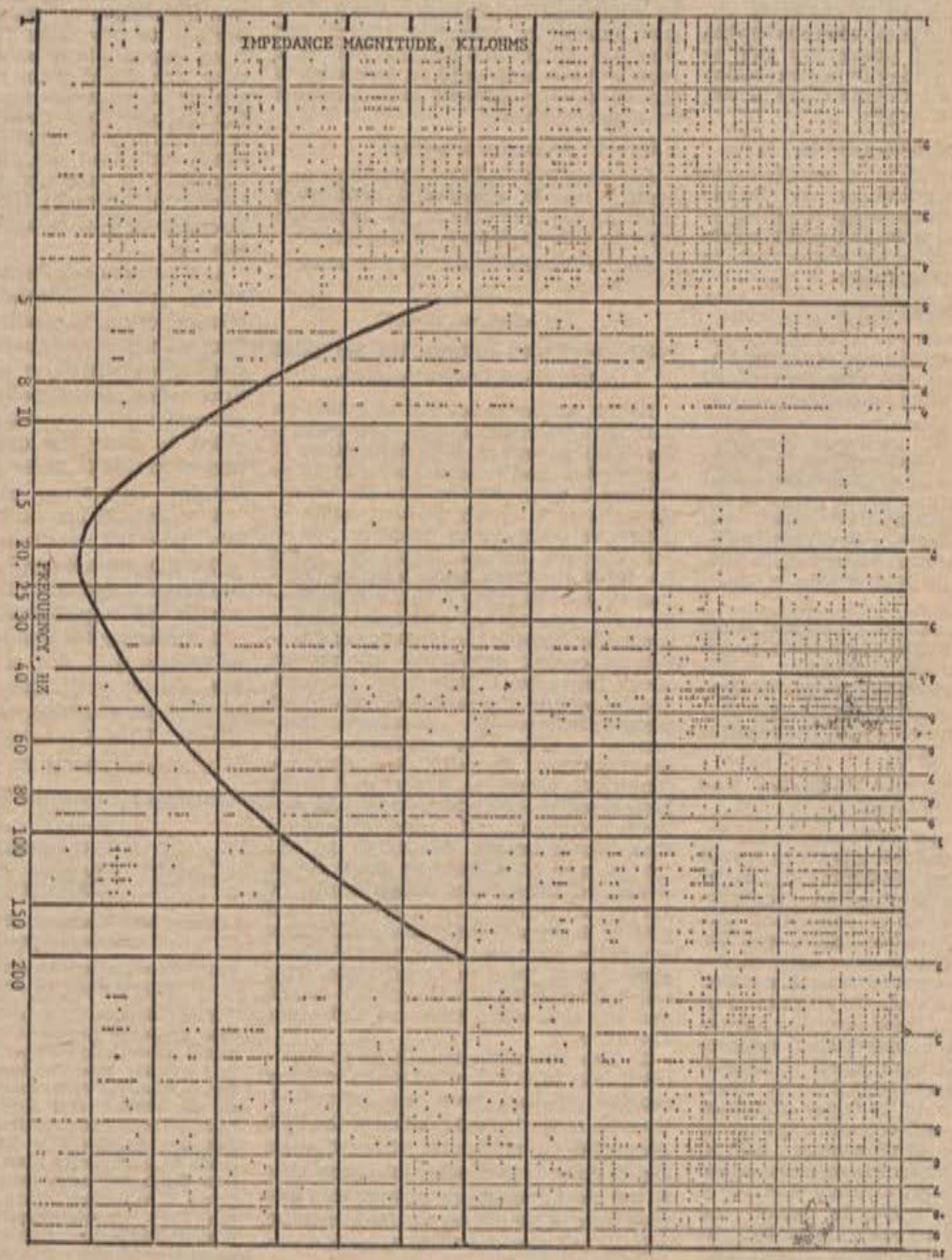
(1) The d.c. resistance between tip and ring connections, and between each of the tip and ring connections and earth ground, under all reasonable applications of earth ground to the registered terminal equipment or registered protective circuitry or equipment connected thereto, shall be greater than 20 megohms if measured with a current-limited 200 volt d.c. voltage source applied (both polarities) to each specified pair of points; and

(2) If a simulated ringing signal consisting of the sum of 75 volts d.c. and 100 volts a.c., r.m.s. in the frequency range of 16⅔ through 66⅔ Hertz is applied to the ringing detection terminals of registered terminal equipment or registered protective circuitry, no more than 1.5 milliamperes d.c. shall flow in the mesh formed by the ringing detection terminals and the simulated ringing signal.

(b) The impedance measurable across the ringing detection terminals of one or more units, connected in parallel, of the same registered terminal equipment or registered protective circuitry, under the application of a 10 volt r.m.s. sinusoidal voltage, shall exceed the impedance magnitude versus frequency curve, depicted in Figure 1, at each frequency depicted on that curve. The reciprocal of the maximum number of such units of the same registered terminal equipment or registered protective circuitry which may be connected in parallel, such that the measurable impedance exceeds the specified curve, is the Ringer Equivalence Number.

§ 68.314 Minimum call duration requirements.

For data applications, registered terminal equipment and registered protective modules shall assure that an outgoing telephone call shall persist for at least 2 seconds after the call is answered.


IMPEDANCE MAGNITUDE, KILOHMS
FREQUENCY, HZ
1
5
8
10
15
20
25
30
40
60
80
100
150
200

Subpart E—Complaint Procedures

§ 68.400 Content.

A complaint shall be in writing and shall contain: (a) The name and address of the complainant, (b) the name (and address, if known) of the defendant against whom the complaint is made, (c) a complete statement of the facts, including supporting data, where available, showing that such defendant did or omitted to do anything in contravention of Part 68 of the Commission's Rules, and (d) the relief sought.

§ 68.402 Amended complaints.

An amended complaint setting forth transactions, occurrences or events which have happened since the filing of the original complaint and which relate to the original cause of action may be filed with the Commission.

§ 68.404 Number of copies.

An original and two copies of all complaints and amended complaints shall be filed. An original and one copy of all other pleadings shall be filed.

§ 68.406 Service.

(a) The Commission will serve a copy of any complaint or amended complaint filed with it, together with a notice of the filing of the complaint. Such notice shall call upon the defendant to satisfy or answer the complaint in writing within the time specified in said notice of complaint.

(b) All subsequent pleadings and briefs shall be served by the filing party on all other parties to the proceeding in accordance with the requirements of Section 1.47. Proof of such service shall also be made in accordance with the requirements of said section.

§ 68.408 Answers to complaints and amended complaints.

Any party upon whom a copy of a complaint or amended complaint is served under this subpart shall serve an answer within the time specified by the Commission in its notice of complaint. The answer shall advise the parties and the Commission fully and completely of the nature of the defense, and shall respond specifically to all material allegations of the complaint. In cases involving allegations of harm, the answer shall indicate what action has been taken or is proposed to be taken to stop the occurrence of such harm, both in terms of future production and with reference to articles in the possession of distributors, sellers, and users. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve an answer within the time and in the manner prescribed may be deemed in default.

§ 68.410 Replies to answers or amended answers.

Within 10 days after service of an answer or an amended answer, a complainant may serve a reply which shall be responsive to matters contained in such answer or amended answer and shall not contain new matters. Failure to reply will not be deemed an admission of any allegation contained in such answer or amended answer.

§ 68.412 Defective pleadings.

Any pleading filed in a complaint proceeding not in substantial conformity with the requirements of the applicable rules in this part may be dismissed.

[FR Doc.75-30629 Filed 11-13-75;8:45 am]

[Docket No. 19142]

PART 73—RADIO BROADCAST SERVICES

Action for Children's Television

In the matter of petition of action for children's television (ACT) for rulemaking looking toward the elimination of sponsorship and commercial content in children's programming and the establishment of a weekly 14-hour quota of children's television programs.

1. Through actions taken in Docket No. 19142, the Commission amended Section IV–B of FCC Form 303, the application for renewal of broadcast station license, by revising the language of Question 6 to seek descriptive information about programs designed for children, and by adding two new questions which request information concerning commercial practices in connection with programming designed for children. *Children's Television Report and Policy Statement*, 50 F.C.C. 2d 1 (1974); *Memorandum Opinion and Order*, re Renewal Form Amendments, 53 F.C.C. 2d 161 (1975); and *Memorandum Opinion and Order*, re Instruction Amendments, 40 FR 47136 (1975). The aforementioned actions, however, established no date on which the changes in the renewal application form were to be effective. This order sets forth the manner in which and the time when they are to become operative.

2. The amendments will be incorporated into FCC Form 303 when existing supplies of that form are exhausted. Commencing with the mailing of the FCC Form 303 to applicants whose licenses expire June 1, 1976, and until such time as the amendments are incorporated into that form, a supplement to Section IV–B will accompany the FCC Form 303 and must be completed by television station renewal applicants.

3. The supplement contains new Question A regarding children's television advertising practices in the past, new Question B regarding proposed practices, and Question 6 revised to seek information on programs designed for children. Instructions for completing these questions are contained in the supplement. The instruction for Question A allows a licensee to rely upon "periodic reports from responsible personnel" for its answer. The choice of the manner and frequency of reports is essentially one for the licensee. Thus, these reports may be in the form of internal letters or memoranda and need not be filed with the answer. It is suggested that they be retained in the event the licensee is required to support its answer to the Commission.

4. A petition for Reconsideration filed by the Council on Children, Media, and Merchandising is pending action by the Commission. If the questions or instructions are changed in any way by the final action on this petition, a new supplement would be issued. We have decided to issue the questions in their present status in order to begin obtaining data as soon as possible.

5. Television broadcast station licensees whose licenses expire prior to June 1, 1976, were not mailed copies of the supplement and will not be required to answer the supplemental questions.

6. Authority for this action is set forth in Section 4(i), 5(d)(1), 303, 307, 308, 309, and 403 of the Communications Act of 1934, as amended, and Section 0.281 (b)(6) of the Commission's Rules.

Adopted: October 31, 1975.

Released: November 7, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

ATTENTION TELEVISION BROADCAST STATION RENEWAL APPLICANTS

CHILDREN'S TELEVISION ADVERTISING PRACTICES SUPPLEMENT TO FCC FORM 303

NOTE: Section IV–B of FCC Form 303 has been amended pursuant to *Children's Television Report and Policy Statement*, 50 F.C.C. 2d 1 (1974); *Memorandum Opinion and Order*, re Renewal Form Amendments, 53 F.C.C. 2d 161 (1975); and *Memorandum Opinion and Order*, re Instruction Amendments, 40 Fed. Reg. 47136 (1975). The Commission intends to incorporate these amendments into FCC Form 303 after the present supply of forms is exhausted. Until such time as this has been accomplished, applicants whose licenses expire on or after June 1, 1976, are required to answer new questions A and B, and question 6 as revised, in this supplement.

FCC Form 303	Statement of TV Program Service Children's Television Advertising Practices	Section IV-B Supplement, Page 1

INSTRUCTIONS FOR COMPLETING NEW AND REVISED QUESTIONS

NEW QUESTIONS A AND B [1]

Applicants for renewal of license will be expected to provide the information requested for Questions A and B only for periods following January 1, 1976. For the purpose of Question A, it is suggested that a licensee who has in effect a policy of adhering to the indicated commercial limits may rely on periodic reports from responsible personnel and need not review all program logs at the time of preparing the renewal application. In addition, for the purpose of Question A, if one or more children's programs fill a full clock hour, that full hour should be listed as a "one hour" segment; if one or more children's programs fill only one-half hour of a clock hour, it should be listed as a "½ hour" segment.

REVISED QUESTION 6

Question 6 is revised by substituting the words "programs . . . *designed for* children twelve years old and under" to replace the current wording "programs . . . *primarily directed to* children twelve years old and under." (Emphasis added.) Applicants need not answer old question 6 of Section IV-B.

DEFINITIONS

1. "Programs Designed for Children" means programs originally produced and broadcast primarily for a child audience twelve years old and under. This does not include programs originally produced for a general or adult audience which may nevertheless be significantly viewed by children.

Note: This definition is not applicable for the purpose of logging, but is applicable only to revised question 6 and new questions A and B.

2. The definition of "commercial matter" is contained in paragraph 1.C. of the "Definitions" in Section IV-B of FCC Form 303.

[1] When these new questions are incorporated into FCC Form 303 they will be given appropriate numerical designations.

FCC Form 303	Statement of TV Program Service Children's Television Advertising Practices	Section IV-B Supplement, Page 2

Name and Post Office Address of Applicant

Call letters of station | Station location: City | State

PAST COMMERCIAL PRACTICES

New Question A: List each one hour or ½ hour segment of programming designed for children twelve years old and under broadcast during the license period which contained commercial matter in excess of:

a. 12 minutes per hour or 6 minutes per half-hour on weekdays (Monday through Friday), or

b. 9 ½ minutes per hour or 4 ¾ minutes per half-hour on weekends (Saturday and Sunday).

For each programming segment so listed, indicate the length of the segment (i.e., one hour or ½ hour) and the amount of commercial matter contained therein.

Segment	Amount of Commercial Matter	Day Broadcas

FCC Form 303	Statement of TV Program Service Children's Television Advertising Practices	Section IV-B Supplement, Page 3

PROPOSED COMMERCIAL PRACTICES

New Question B: a. What is the maximum amount of commercial matter per hour the applicant proposes to allow in programs broadcast on weekdays (Monday through Friday) which are designed for children twelve years old and under?

.....

If the applicant proposes to permit this amount to exceed 12 minutes, state in Exhibit No..... under what circumstances and how often this is expected to occur, and the limits that would then apply.

b. What is the maximum amount of commercial matter per hour the applicant proposes to allow in programs broadcast on weekends (Saturday and Sunday) which are designed for children twelve years old and under?

.....

If the applicant proposes to permit this amount to exceed 9 ½ minutes, state in Exhibit No. ..... under what circumstances and how often this is expected to occur, and the limits that would then apply.

NOTE.—Unless otherwise indicated, it is assumed that proportional commerical time limits apply to ½ hour segments for the purpose of this question.

Revised Question 6: In Exhibit No. ..... give a brief description of programs, program segments or program series broadcast during the license period which were designed for children twelve years old and under. Indicate the source, time and day of broadcast, frequency of broadcast, and program type.

[FR Doc.75-30744 Filed 11-13-75;8:45 am]

[Docket No. 19417; Rm-1836; FCC 75-1235 37859]

PART 76—CABLE TELEVISION SERVICE

Carriage of Sports Programs

In the matter of amendment of Part 76 of the Commission's rules and regulations relative to cable television systems and the carriage of sports programs on cable television systems. Petition for rule making amendment to section 76 of the Commission's rules and regulations relative to cable television systems filed by Channel 6, Inc., licensee of Television Broadcast Station KCEN-TV, Temple-Waco, Texas.

1. On July 9, 1975, the Commission adopted its *Report and Order in Docket 19417*, hereafter referred to as the *Report and Order*.[1] That action amended the Commission's cable television rules to include a new Section 76.67, which became effective on August 22, 1975. Section 76.67 prohibits the cable television carriage, via distant television broadcast signals, of live sports events which are performed locally and which are made available for local conventional television broadcast.[2] Petitions for reconsideration of the *Report and Order* filed pursuant to Section 1.106 of the Rules have been received from the National Association of Broadcasters (NAB), American Broadcasting Companies, Inc. (ABC), Kaiser Broadcasting Company (Kaiser),[3] a group of television station licensees (Television Licensees), the National Football League (NFL), the Commissioner of Baseball (Baseball), the National Hockey League (NHL) and the National Collegiate Athletic Association (NCAA). These petitions are opposed by the National Cable Television Association, Inc. (NCTA).

2. Petitioners generally contend that the Commission's refusal to afford protection against the fragmentation of television sports audiences is contrary to the public interest because it will result in the overall diminution of sports telecasts. It is asserted that this decrease will occur because the cable television importation of distant sports telecasts will so erode the advertiser base for local sports telecasts that the present level of sports telecasts will no longer be economically feasible. Additionally, it is argued that the oversaturation of sports telecasts resulting from unrestricted cable television importations will impact on gate receipts and the value of television rights, thereby inducing sports entrepreneurs to restrict the current number of sports telecasts.[4]

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[1] FCC 75-819, 54 FCC 2d 265 (1975).

[2] The complete text of § 76.67 is as follows:

76.67 Sports Broadcasts

(a) No cable television system located in whole or in part within the specified zone of a television broadcast station licensed to a community in which a sports event is taking place, shall, on request of the holder of the broadcast rights to that event, or its agent, carry the live television broadcast of that event if the event is not available live on a television broadcast signal carried by the system pursuant to the mandatory signal carriage rules of this Part. For the purposes of this Section, if there is no television station licensed to the community in which the sports event is taking place, the applicable specified zone shall be that of the television station licensed to the community with which the sports event or local team is identified, or, if the event or local team is not identified with any particular community, the nearest community to which a television station is licensed.

(b) Notification of the programming to be deleted shall be made in accordance with the procedures specified in Section 76.94, for obtaining network program nonduplication protection.

(c) The provisions of this section shall not be deemed to require the deletion of any portion of a television signal which a cable television system was lawfully carrying prior to March 31, 1972.

[3] Kaiser is not a party to this proceeding, but asserts that it is entitled to seek reconsideration pursuant to Section 1.106 of the Rules because its interests are adversely affected by the Commission's action and the factual presentation it makes in its petition relates to events which have occurred or circumstances which have changed since the final filing date in the docket.

[4] The following statement in ABC's Petition for Limited Reconsideration is representative of these arguments: ". . . the importation of an excessive number of sports events must be prohibited, first, to preserve the value of local, free television schedules and, second, to prevent situations developing in which sports interests feel impelled to remove or curtail sports schedules on free television in order to avoid unacceptable impact upon other teams in the league." At p. 2.

3. As we stated in paragraph 42 of the *Report and Order*, we are not persuaded by these arguments of audience fragmentation. Cable television increases the distribution of television programming, thereby making available to the public a broader selection of television programs. Absent evidence that cable television distant signal sports carriage is likely to reduce the overall availability of sports programming or to adversely affect the ability of individual television broadcast stations to serve the public, restrictions on such sports carriage cannot be justified.

4. The argument that sports promoters might curtail their telecasts in order to maintain the value of television rights and to assure gate attendance is not persuasive. It is possible that cable television sports program importations might contribute to a condition of sports program oversaturation, and that satiation of the public's demand for such programs might diminish advertiser support and gate attendance, which in turn might result in a decrease in the number of sports telecasts. This possibility, however, does not justify regulations intended to prevent oversaturation. We believe that the forces of supply and demand will determine the number of sports events which are to be televised, and the imposition of artificial restraints on the viewing of televised sports does not appear to be consistent with our statutory obligations or the public interest.

5. In paragraph 42 of the *Report and Order*, we stated that sports is but one form of television programming, and that it is not sufficiently dissimilar from other programming to warrant special treatment because of its impact upon local television audiences. Kaiser has attempted to show that sports audiences, unlike most other types of program audiences, are overwhelmingly composed of adult males, and that these adult male audiences are particularly important to independent television stations, especially independent UHF stations. Kaiser concludes that this difference is sufficient to warrant a rule designed to protect local sports audiences from invading distant sports telecasts.

6. While the characteristics of sports audiences may be somewhat different than those of other television program audiences, the argument of Kaiser does not justify the rule proposed. Television station audiences may be increased as well as decreased by cable sports carriage. In paragraph 36 of the *Report and Order*, we quoted from the comments of one independent UHF station that benefited by the increased distribution of its sports programs brought about by carriage of its signal on cable television systems. This indicates that cable television carriage of distant signal sports may have positive as well as negative effects upon television broadcast stations. In any case, the Commission's cable television signal carriage rules already restrict the importation of distant television signals. We have found that these rules are generally adequate to maintain the level of conventional broadcast television service, and the evidence submitted by petitioners has not convinced us that additional restrictions are necessary. Therefore, we will deny petitioners' requests, and will continue to rely upon the special relief procedures afforded by the Rules to remedy situations where it can be shown that distant signal sports carriage threatens to undermine local television service.

7. The foregoing discussion relates to those arguments which call for regulations prohibiting all or substantially all distant signal sports cable television carriage. In the event that the general policy enunciated in the *Report and Order* is retained, the petitions also suggest a number of specific alterations to the rule adopted by the Commission. The following discussion deals with these suggestions.

8. *Intercollegiate and interscholastic sports telecasts.* In its petition for reconsideration, the NCAA claims that the Commission has failed to include in its sports rule provisions for the protection of high schools and colleges from the encroaching cable carriage of telecasts of professional football games, in disregard of established Congressional policy expressed in Section 3 of Public Law 87-331 and confirmed in Public Law 93-107. The NCAA also asserts that the Commission has failed to provide limitations on cable carriage of television broadcasts of NCAA events, in disregard of evidence that such carriage will decrease the availability of television broadcast programming to the general public and have a serious impact on gate receipts necessary to support college athletic programs.

9. The NCAA is correct insofar as it claims that Congress has enacted legislation to protect high school and college football from competing professional football telecasts.[5] However, Congress has not made this Commission responsible for the welfare of high school and college athletic programs. Congress has directed us to provide for an efficient, nationwide communications service, and the sports rule which we adopted in the *Report and Order* is intended to carry out this purpose by discouraging the extension of sports television blackouts. The restrictions sought by the NCAA do not come within the rationale of this rule. Additionally, although evidence has been submitted showing that a few professional football games are telecast on the same day that college contests are scheduled, and that cable distant signal importations will bring the professional telecasts within the drawing areas of the college games, no evidence has been presented which indicates what, if any, impact these importations are likely to have on the gate attendance of the college events. Because the rule sought by the NCAA would not foster our communications objectives, and because no evidence has been tendered which indicates that the public will be harmed in the absence of such a rule, we are not persuaded to preclude cable distant signal carriage of professional football telecasts which conflict with the playing of high school and college contests.

10. The second point made by the NCAA relates more directly to our concern with the overall level of sports telecasts. The NCAA asserts that the widespread distribution given college football telecasts by cable television systems results in conflicts between these telecasts and other college and high school football events. According to the NCAA, these conflicting telecasts adversely affect attendance at other NCAA events, thereby requiring the telecasts to be curtailed. The NCAA has produced evidence showing that its regional and "exception" telecasts have been curtailed due to the effects of widespread cable television carriage of NCAA football broadcasts. In light of this evidence, the NCAA urges the Commission to prohibit the cable carriage of NCAA telecasts in areas where they conflict with other NCAA events.

11. In paragraph 47 of the *Report and Order*, we noted that professional football routinely allows telecasts of its games in areas where other professional football events are taking place. In paragraph 54, we stated that many teams now play at home on the same day that other league games are televised in their home territories, and that this practice has had no demonstrable impact on gate receipts. We concluded that rules prohibiting cable television importations of other games into the home territories of teams playing at home do not appear to be necessary to protect the home teams' gate receipts. Although the NCAA has shown that it refuses to allow its telecasts to compete with other NCAA events, no evidence has been submitted which indicates that distant cable carriage of NCAA events has had or is likely to have an adverse impact on NCAA gate receipts. We would hope that the public's interest in viewing NCAA events and the revenues to be derived from their television broadcast will deter the NCAA from curtailing the telecasting of its events. But whatever the decision of the NCAA may be, absent evidence that additional restrictions on the cable carriage of NCAA events are necessary, it would be inappropriate for us to grant the NCAA the special protection it seeks.

12. *Zone of protection.* Broadcast interests contend that the 35-mile zone of protection afforded by Section 76.67 is unfair because the rule does not extend cable blackouts throughout the areas subject to broadcast television blackouts imposed by sports interests. Thus, the situation arises where a television station may be blacked-out with regard to a particular sports event, and cable systems within its service area, and possibly within its very city of license, are permitted to carry the event via a distant television signal. To remedy this inequitable situation, and to prevent the extension of television blackouts by sports interests, it is argued that the cable rule should prohibit cable carriage of sports

[5] See, 15 U.S.C. 1293 and 47 U.S.C. 331.

events within all areas where the events are not made available for over-the-air telecast.

13. This argument fails to recognize the technological differences between broadcast and cable television. Typically, all television stations which serve areas within the "home territories" defined by sports interests are blacked-out to protect gate attendance. If a 50-mile zone of protection is established, and a broadcast station one hundred miles distant serves areas within that 50-mile protected zone, the station may not be permitted to televise the event. Unlike broadcast stations, cable systems serve discrete areas which are considerably smaller than the service areas of broadcast stations. Presumably, sports interests would not desire to restrict sports carriage on cable systems outside the protected areas which they have established. Any rule requiring cable sports blackouts in all areas subject to broadcast television blackouts would provide far more protection than sports interests need or even desire. Thus, the only reason for requiring such large areas of restricted cable sports carriage is to protect television broadcast stations from audience fragmentation. We have already determined that such protection is not required.

14. Petitioners contend that the 35-mile zone of protection is not sufficient to meet even the limited purposes that the Commission intends to achieve. It is argued that the rationale of the 35-mile specified zones established in the general cable television rules does not apply to the problem addressed by Section 76.67, and that the Commission should follow the Congressional policy established in P.L. 87-331 by adopting the home territory definition used by the sport in question. The comments of Baseball refer to the league contracts of the major professional sports, which define home territory as a zone of 50 miles radius for Major League Baseball and the NHL, and as a zone of 75 miles radius for the NFL and the National Basketball Association. Such fixed mileage zones, states the NFL, realistically reflect actual "home territories," and also have the advantages of administrative ease and certainty which are part of the justification for the 35-mile standard used in the general cable rules. Should the Commission retain its television market standard, the NHL states that the zone of protection should at least include the area within hyphenated markets, such as Minneapolis-St. Paul. It is argued that the hyphenated market standard more appropriately reflects the Commission's intent to provide some protection to the holders of property rights. The NHL argues that the situation of sports interests is analogous to that of syndicated program producers, whose program property rights are protected throughout hyphenated markets by the Commission's syndicated program exclusivity rule.[8]

[8] See § 76.151 of the Rules.

15. The drawing areas of sports events depend upon the type of sport in question, the popularity of the contestants, and the demography and geography of the regions in which the events take place. Because of the many variables involved, no single fixed standard can identify precisely the "home territory" of every sport contest. However, there does not appear to be any acceptable alternative to a single fixed standard. The open-ended discretion given the sports leagues by P.L. 87-331 is not necessary to accomplish the limited objectives of our sports rule. While sports interests would be inclined to define home territories broadly to encompass all of their potential gate audience, a more narrow definition in most cases should be sufficient, we believe, to prevent extensions of broadcast blackouts. Additionally, it is doubtful that either sports interests or this Commission could obtain the necessary data to define with exactitude the particular zone of protection each individual sporting event requires in order to accomplish the purposes of the rule. For these reasons, we must settle upon a single fixed standard capable of general application.

16. Any restriction on cable carriage of sports telecasts should be drafted as narrowly as possible so that our policy is given effect without unnecessarily restricting the dissemination of sports programming. In paragraphs 59 and 60 of the *Report and Order*, we determined that a 35-mile zone of protection would be sufficient to accomplish our objectives. Although petitioners claim that this zone is too small to prevent the loss of gate receipts, no new evidence has been tendered to pursuade us that the 35-mile zone is unreasonable. We realize that a larger zone might be called for in certain instances, and our special relief procedures provide the possibility of receiving appropriate relief where it can be demonstrated that cable sports importations in areas outside the zone provided by our rule will require the enlargement of home television blackouts. We are confident, however, that the 35-mile standard adopted in the *Report and Order* will generally achieve the purpose it is intended to serve, and we have not been pursuaded that a more broad standard would be in the public interest.

17. The hyphenated market standard suggested by the NHL would not be appropriate for purposes of the sports rule. Where the specified zones of television stations comprising a hyphenated market almost coincide, such as the Minneapolis-St. Paul television market, the additional area of cable sports carriage protection that a hyphenated market standard would provide is relatively insignificant. However, such a standard would include a very large area when applied to the Los Angeles-San Bernardino-Corona-Fontana hyphenated market; an area far greater than we consider necessary. Because the hyphenated market standard would in many cases require cable sports blackouts in areas where such protection is not needed, we cannot conclude that it would be an appropriate standard for purposes of the rule in question.

18. *Suburban stadia.* Several petitioners contend that the television station specified zone standard applied by Section 76.67 is inappropriate when applied to sports events which take place some distance from the nearest community to which a television broadcast station is licensed. The NHL points out that Section 76.67 provides the New York Islanders with a protected zone extending 55 miles west of their Nassau, Long Island stadium, and extending only 15 miles east. Similarly, the NFL directs our attention to the situation of the New England Patriots who play their games in Foxboro, Massachusetts. The two closest television communities to Foxboro are Boston, Massachusetts, and Providence, Rhode Island, each approximately 23 miles distant. If the specified zone of the Boston television stations is selected, the Patriots' zone of protection will extend only twelve miles in the direct of Rhode Island, and will omit such population centers as Providence, Worcester, Massachusetts (located about 30 miles from Foxboro) and Fall River, Massachusetts (located about 20 miles from Foxboro). An additional example of the problem is provided by the Detroit Lions football team, which plays its games in a stadium located in Pontiac, Michigan, approximately 24 miles from Detroit.

19. The foregoing examples indicate that the specified zone standard utilized by the sports rule may not be appropriate when the rule is applied to some situations. This does not mean, however, that the rule as presently drafted should be revised. The specified zone standard is used throughout the cable television rules, the geographical relationships of most cable systems to nearby television station specified zones has been ascertained, and reference material which indicates the area covered by television station specified zones is readily available. These considerations demonstrate the overall utility of using the specified zone standard for purposes of the new sports rule. Where this standard is clearly not appropriate, we will look favorably upon waiver requests seeking to substitute a zone of protection extending out 35 miles from the site of a sports event for the television station specified zone designated by the rule. By way of this waiver policy, we can afford relief in those relatively few instances where it is needed without requiring the computation of new 35-mile zones extending from the site of every televised sports event in the nation.

20. *Notice requirements.* Section 76.67 requires that the holder of the broadcast rights of the event to be protected notify affected cable television system operators as to what programming is to be deleted. This notice must comply with the procedure set forth in § 76.94 (a), which requires that notices be given at least on a monthly basis, no later than six days preceding the calendar month during which protection is requested.

Changes in the monthly notification must be submitted at least six days prior to the programming to be deleted.[1]

21. In its comments, the NHL states that in some instances confusion may exist as to the identity of the legal holder of sports broadcast rights. We indicated in paragraph 62 of the *Report and Order* that the holder of broadcast rights may be a team, promoter, league, or other agent. Because we do not foresee conflicts among the various interests who might have a claim to the broadcast rights of a particular sports event, at least so far as our rule is concerned, we do not believe that it will be necessary for anyone to wrestle with the legal niceties of ownership. We are confident that the interested parties will be able to agree upon which of them is to provide notice when protection is desired. Where convenient, a party without direct interest in receiving protection may be designated to provide notice. Our primary concern is merely that appropriate notice be given by the party or parties in the position to enforce the subject local television blackout giving rise to the requested program deletion.

22. The requirements that notice must be given on a monthly basis and that revisions must be submitted no later than six days prior to the requested program deletion pose much more serious problems than the question of who is to provide the notice. The petitioning sports interests assert that notice as to regularly scheduled telecasts can be given on a season-wide basis, and monthly notices are not necessary. However, notice as to playoff telecasts, of events which have been rescheduled (such as rainouts) often cannot be given at least six days prior to their occurrence. Therefore, it is suggested that the rule permit the submission of a single notice prior to the commencement of a sports season, and allow revisions and updates to be submitted up to 24 hours prior to the telecast to be deleted.

23. We are pursuaded that the notice provisions now contained in § 76.67 are in need of revision. We will, therefore, amend the rule to require that notice be given, as to regularly scheduled events, no later than the Monday preceding the calendar week (Sunday through Saturday) during which program deletions are sought. Such notice need only be given once, and may be given as far in advance as desired. Notice as to events not regularly scheduled, such as playoff games, and revisions of notices previously submitted, such as where a regularly scheduled event has been rained out and it is scheduled to take place at a later date, will be required within 24 hours after the time of the telecast to be deleted is known, but in any event no later than 24 hours from the time the subject telecast is to take place. As brought out in the opposition of NCTA, notice given only 24 hours prior to the requested program deletion may cause some inconvenience to cable system operators who may be required to set switching equipment on weekends. On the other hand, even a 24-hour notice provision may not provide sports interests sufficient time to notify cable systems of rescheduled events, such as where a baseball game is rained out on one evening and is rescheduled for the next afternoon. In the majority of cases, we expect notice to be given well before the program deletion requested, and will require revisions and updates to be made within 24 hours after the time of the telecast to be deleted is known to assure that last minute notices are kept at a minimum. On balance, these notice requirements appear to reach a reasonable compromise between the differing concerns of cable system operators and sports interests.

24. The NFL asserts that the notice requirement of § 76.67 does not indicate with sufficient clarity the information to be contained in the notices, and claims that compliance with the requirement is impossible with regard to signals not regularly carried by cable systems. We agree that some refinements are in order, and we are revising the rule to specify the following notice procedure. As to sports programs to be deleted from distant signals regularly carried by the cable system receiving notice, the notice should include the name and address of the party requesting the deletion, the date, time and expected duration of the sports event to be protected and the call letters of the broadcast stations which will televise the event. The cable system operator will be required to determine which, if any, of the broadcast stations televising the event are carried on the system, and to cease carriage of that signal or signals on the date and during the period specified in the notice. As to sports programs to be deleted from distant signals not regularly carried by the cable system receiving notice, such as signals substituted for regularly carried signals pursuant to § 76.61(b)(2)(ii), the notice should include the name and address of the party requesting the deletion and the date, time and expected duration of the sports event to be protected. The cable system operator will be required to determine whether the sports program to be protected is to be televised by stations not regularly carried by the system, and to provide the protection requested.

25. *Program substitution.* In paragraph 30 of the *First Report and Order in Docket 19995*, FCC 75–413, 52 FCC 2d 519 (1975), we noted that the blacking out of cable television channels constitutes a major source of frustration to both subscribers and system operators. We, therefore, amended § 76.55 of the Rules to allow dual channel carriage of signals receiving network nonduplication protection. With regard to distant independent signals, Section 76.61(b)(2)(ii) of the Rules permits system operators to substitute other programs for programs deleted pursuant to the syndicated program exclusivity rule. We believe that a similar policy should be adopted with regard to programs deleted pursuant to our new sports rule. Therefore, we are amending §76.67 to permit cable system operators to substitute a different program from any other television station for programs required to be deleted pursuant to that section. This change is in keeping with our previous statements concerning program deletions, and will reduce the number of occasions where a channel normally provided by a cable system is required to be blank.

26. *Network programming.* In footnote 60 of the *Report and Order*, we stated that when a telecast is being carried by a local television station as well as by a distant station provided by a local cable system, the distant signal will have to be blacked out by the cable system pursuant to our network nonduplication rules, thereby preserving the local station as the exclusive local television outlet for the event. There are situations where the local television outlet for each of two competing sports teams televises the event in the respective home territories, and both signals are carried by cable television systems. Although the event is televised by both stations simultaneously and the video portions of the sports program are usually the same, each station may provide its own announcer to perform the audio portion of the program. Given these circumstances, questions arise as to whether the two stations constitute a regional television network as the term is used in Section 76.5(o) of the Rules, and whether the network program nonduplication rule is applicable. In *Cable TV of Fairmont*, FCC 74–990, 48 FCC 2d 991 (1974), *recon. denied*, FCC 75–82, 50 FCC 2d 976 (1975), we stated that a sports event supplied and carried on a simultaneous, interconnected basis within a discrete geographic region served by three television broadcast stations constituted a network program. We think that the circumstances present in the Fairmont case and the problem posed above are sufficiently dissimilar to require different conclusions with regard to the network nonduplication rule. We need not make a definitive ruling on the question here, however. So far as we are aware, the problem which we have posed does not occur with regularity. Given the special nature of the problem, we feel that determinations can best be made on an *ad hoc* basis where the Commission has before it pleadings directed at specific issues in dispute.

27. The NHL and Baseball argue that not only should the local television outlet of a team playing away receive nonduplication protection against a distant telecast by the outlet of the home team when both outlets are televising the event, but that the exclusivity of the local outlet should be protected against the distant outlet's telecast even when the local outlet does not televise the

[1] Section 76.94 was amended subsequent to our *Report and Order* in this proceeding. The rule previously required notices to be given no later than eight days preceding the calendar month during which protection is requested and required changes to be submitted at least eight days prior to the programming to be deleted. *See Memorandum Opinion and Order in Docket 19995*, FCC 75–1143, —— FCC 2d —— (released October 20, 1975).

event. Where an event is not televised in the away team's home territory, either because the event is not made available to stations in that market or because those stations choose not to televise the event, cable television offers the only opportunity to view the event. In such a situation, it would appear that the away team's local outlet could maintain its identity as the exclusive outlet for the team's games by televising all of the team's away games. Without a clear showing of need, which petitioners have not made, we would not be disposed to provide the additional protection requested by the NHL and Baseball.

28. *Leapfrogging.* Several petitioners contend that the Commission's review of the sports rule must include consideration of the possible revision of its "leapfrogging" rules [Sections 76.59(b) (1) and (2), 76.61(b) (1) and (2) and 76.63 as it relates to 76.61(b) (1) and (2)] as proposed in the Commission's *Notice of Proposed Rule Making in Docket 20487*, FCC 75-565, 53 FCC 2d 175 (1975). It is argued that the elimination or relaxation of the leapfrogging rules would have an adverse impact on local stations because cable systems would import large market stations which have the most appealing schedules of major sporting events. While the existence of substantial sports programming may have an important influence as to which distant television signals cable systems choose to carry, any alterations which we might make concerning the leapfrogging rules have no bearing upon our determinations in this proceeding. We have repeatedly stated that necessity for special restrictions to prevent the fragmentation of sports program audiences has not been demonstrated. Our concern here is to prevent the expansion of local sports television blackouts which might result from cable importations of distant telecasts of local sports events. Arguments that distant sports telecasts might require the retention of our present leapfrogging restrictions are irrelevant to this proceeding, and will be considered in Docket 20487.

29. *Small system exemption.* Although not brought up by the parties to this proceeding, we believe some consideration should be given to the impact of the sports rule on small cable television systems. We have exempted individual and conglomerate cable systems serving fewer than 1,000 subscribers from our network nonduplication and syndicated exclusivity rules.[8] The arguments in favor of these exemptions appear to equally favor exempting small cable systems from the requirements of § 76.67. However, because this issue has not been addressed by the parties, we are reluctant to provide such an exemption at this time. For the present, we will rely on our special relief provisions to remedy situations where it can be demonstrated that the requirements of § 76.67 place an unreasonable burden on small cable television systems. We will also continue to review the impact on small systems of § 76.67 as well as that of all our cable rules as part of the proceeding commenced by our *Notice of Proposed Rule Making in Docket 20561*, FCC 75-896, 54 FCC 2d 824 (1975).

30. Because the present notice requirements of § 76.67 have created some confusion among various parties as to their respective rights and obligations, the public interest will be served by immediate implementation of the amendments adopted herein. Many of those who must comply with the amended notice provisions of § 76.67 are parties to this proceeding and will have knowledge of the amendments upon release of this document. Those cable television systems which must delete programming pursuant to § 76.67 will be made aware of the amendments when the notice required by the rule is given. Inasmuch as the obligations of those who must provide notice are reduced by the amendments, no party will be prejudiced by failure to comply with the new notice requirements. With regard to the new program substitution provision which we have included in the rule, no new obligation has been imposed and the public interest will be facilitated by allowing cable systems to exercise the right which the new provision has created as soon as possible. Accordingly, the amendments will be effective immediately on publication in the FEDERAL REGISTER.[9]

31. In conclusion, we have found that the petitions for reconsideration contain many of the same arguments advanced prior to our adoption of the *Report and Order in Docket 19417*, and we have not been persuaded to withdraw from the basic policy reflected in § 16.67 of the Rules. To the extent that petitioners suggest procedural refinements to facilitate our intent, we have made appropriate modifications. We believe that the rule as amended herein will serve the public interest by allowing for the widest possible distribution of sports telecasts while preserving the overall number of sports telecasts now available to television viewers.

Authority for the rules adopted in the Appendix attached hereto is contained in Sections 2, 4 (i) and (j), 303, 307, 308, and 309 of the Communications Act of 1934 as amended.

Accordingly, it is ordered, That the petitions for reconsideration filed by the parties enumerated in paragraph 1, *supra*, are granted to the extent indicated herein and otherwise are denied.

It is further ordered, That Part 76 of the Commission's Rules and Regulations is amended, effective November 14, 1975 as set forth below.

(Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309)

Adopted: November 4, 1975.

Released: November 12, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[10]
[SEAL] VINCENT J. MULLINS,
Secretary.

Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

In § 76.67 paragraphs (b) and (c) are revised and new subparagraphs (d) and (e) are added to read as follows:

§ 76.67 Sports broadcasts.

(a) * * *

(b) Notification of the programming to be deleted pursuant to this section shall include the following information:

(1) As to programming to be deleted from television broadcast signals regularly carried by the cable system:

(i) The name and address of the party requesting the program deletion;

(ii) The date, time and expected duration of the sports event the television broadcast of which is to be deleted;

(iii) The call letters of the television broadcast station(s) from which the deletion is to be made.

(2) As to programming to be deleted from television broadcast signals not regularly carried by the cable system:

(i) The name and address of the party requesting the program deletion;

(ii) The date, time and expected duration of the sports event the television broadcast of which is to be deleted.

(c) Notifications given pursuant to this section must be received, as to regularly scheduled events, no later than the Monday proceding the calendar week (Sunday–Saturday) during which the program deletion is to be made. Notifications as to events not regularly scheduled and revisions of notices previously submitted, must be received within twenty-four (24) hours after the time of the telecast to be deleted is known, but in any event no later than twenty-four (24) hours from the time the subject telecast is to take place.

(d) Whenever, pursuant to this section, a cable television system is required to delete a television program on a signal regularly carried by the system, such system may, consistent with the rules contained in Subpart F of this part, substitute a program from any other television broadcast station. A program substituted may be carried to its completion, and the cable system need not return to its regularly carried signal until it can do so without interrupting a program already in progress.

(e) The provisions of this section shall not be deemed to require the deletion of any portion of a television signal which

[8] See, *First Report and Order in Docket 19995*, FCC 75-413, 52 FCC 2d 519 (1975), and *Report and Order in Docket 20482*, FCC 75-1065, —— FCC 2d —— (Released September 29, 1975).

[9] This action is consistent with Section 1.427(b) of the Commission's Rules and 5 *U.S.C.* 553(d).

[10] Commissioner Hooks absent and Commissioner Robinson's dissenting statement filed with the original document.

a cable television system was lawfully carrying prior to March 31, 1972.

[FR Doc.75-30743 Filed 11-13-75;8:45 am]

[Docket No. 20113; RM-2327; FCC 75-1216]

75-1216]

PART 97—AMATEUR RADIO SERVICE

Crossband Operation of Repeater Stations

1. On July 17, 1974, the Commission adopted a Notice of Proposed Rule Making in the above-entitled matter which was published in the FEDERAL REGISTER on July 31, 1974 (39 FR 27707). Proposals in this proceeding contemplated amendment of Part 97 of the Commission's Rules to permit crossband operation of repeater stations, i.e., to permit repeater stations to utilize an output (transmit) frequency within a different frequency band than the input (receive) frequency. The comments submitted by interested parties have each been carefully considered as indicated in the following discussion.

2. By way of background, in 1972, the Commission formalized specific rule provisions for the operation and technical development of amateur radio stations which can receive and automatically retransmit the signals of other amateur stations. (See the Report and Order in Docket No. 18803, 37 FCC 2nd 225, 1972.) Prior to these rules changes, repeater stations had been authorized in the Amateur Radio Service under limited general rules that related primarily to any remotely controlled station. In that proceeding the Commission expressed the opinion that terrestrial repeater stations should be utilized only for intra-community radiocommunication. This and a desire to conserve spectrum led the Commission to adopt rules for repeater stations which would accommodate the majority of situations. In March, 1974, the American Radio Relay League, Incorporated, submitted a Petition for Rule Making, RM-2327, to delete the portion of the rules which prohibits the crossband operation of repeater stations. All comments in this proceeding supported our proposal as being timely and in general conformance with today's practical requirements for amateur repeater operations.

3. As pointed out by several respondents, there is a considerable disparity in the use of the term "automatic retransmission" as applied to repeaters and other types of amateur radio stations. By the term "automatic retransmission", we mean retransmitting the signals of other amateur radio stations in real time or very near real time where the transmitter performing the retransmission is actuated solely by the mere presence of a received signal through electrical or electro-mechanical means, i.e., without any direct, positive action by the control operator of the station effecting the retransmission. The only types of amateur stations which may automatically retransmit signals are repeaters and auxiliary links (which are limited to operation on certain frequencies), and certain remotely controlled stations. Where the transmitter is actuated manually by direct, positive action on the part of its control operator, we do not consider such retransmission as being automatic. The Section containing definitions, § 97.3, has been expanded to add this term in order to minimize possible ambiguities in the statement of the rules.

4. In line with our proposal, we are deleting the prohibition of crossband operation of repeater stations. These revised rules, and those recently adopted in Docket 20073 to delete the limitations on interconnecting repeater stations, will afford amateurs considerably increased flexibility in the operation of such stations. Implementation of crossband repeater operation will require no special applications. Revised station log entries will, however, be required where additional transmitters are added on other repeater frequency bands.

5. In consideration of the foregoing, the Commission finds that adoption of rules to permit crossband operation of amateur repeater stations is in the public interest, convenience, and necessity. The specific rule amendments are set forth below.

6. Accordingly, pursuant to authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, *it is ordered* That, effective December 15, 1975, Part 97 of the Commission's Rules is amended as shown below. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1068, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Adopted: October 29, 1975.

Released: November 5, 1975.

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 97.3, a new paragraph (y) is added to read as follows:

§ 97.3 Definitions.

* * * * *

(y) Automatic retransmission. Retransmission of signals by an amateur radio station whereby the retransmitting station is actuated solely by the presence of a received signal through electrical or electro-mechanical means, i.e., without any direct, positive action by the control operator.

2. § 97.111(c) is revised to read as follows:

§ 97.111 Operation of a repeater station.

* * * * *

(c) A repeater station may concurrently receive and retransmit amateur radio signals on one or more frequency bands authorized for repeater stations, but may not concurrently restransmit on more than one frequency within the same band except when specifically approved by the Commission. A repeater station authorized to operate in conjunction with one or more auxiliary link stations for relaying radio signals, received at another location(s), to the repeater station may utilize input (receiving) frequencies not available for repeater stations, provided the input frequencies to the auxiliary link station(s) are in frequency bands authorized to repeater stations.

* * * * *

3. New § 97.126 is added to read as follows:

§ 97.126 Retransmitting radio signals.

No amateur radio station, except a properly licensed repeater station, auxiliary link station, or a remotely controlled station may automatically retransmit the radio signals of other amateur radio stations. A remotely controlled station, other than a remotely controlled repeater station or auxiliary link station, may retransmit only the radio signals of auxiliary link stations shown on the station system network diagram.

[FR Doc.75-30745 Filed 11-13-75;8:45 am]

Title 49—Transportation

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

[Docket No. 75-17; Notice 1]

PART 553—RULEMAKING PROCEDURES

Initiation of Petition; Correction

On September 10, 1975, a notice was published amending 49 CFR Part 553, *Rulemaking Procedures*, to delete certain provisions of the regulation incorporated in a new Part 552, *Petitions for Rulemaking, Defect, and Noncompliance Orders*, published the same day (40 FR 42015). Section 553.35(a) refers to "petitions filed under § 553.31." However, the provisions of § 553.31 are now incorporated in 49 CFR Part 552. As a result, the notice amending Part 553 should have included an amendment to § 553.35(a) reflecting this change.

Accordingly, the phrase "petitions filed under § 553.31" in paragraph (a) of § 553.35 is changed to read "petitions filed under Part 552 of this chapter."

Effective date: November 14, 1975. Because this amendment clarifies a previous notice and imposes no additional burden on any person, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 1) 19, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1407); delegation of authority at 49 CFR 1.51)

Issued on November 10, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75-30755 Filed 11-13-75;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket 74-21; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Windshield Zone Intrusion; Response to Petitions for Reconsideration

This notice responds to four petitions for reconsideration of the notice published June 16, 1975 (40 FR 25462), which established a new Motor Vehicle Safety Standard No. 219, *Windshield Zone Intrusion*, 49 CFR 571.219, regulating the intrusion of vehicle parts from outside the occupant compartment into a defined zone in front of the windshield during a frontal barrier crash test. The National Highway Traffic Safety Administration (NHTSA) hereby amends Standard No. 219 on the basis of the information and arguments presented by some of the petitioners.

Petitions for reconsideration were received from the Motor Vehicle Manufacturers Association (MVMA), General Motors, Ford, and Jeep. MVMA, General Motors, and Ford requested substitution of the term "dayight opening" for "windshield opening," and General Motors and Jeep requested a change in the effective date of Standard No. 219 from September 1, 1976 to September 1, 1977. In addition, Jeep requested that Standard No. 219 not become applicable until final issuance of Standard No. 212, *Windshield Mounting*, 49 CFR 571.212.

The NHTSA has determined that the petitions of MVMA, General Motors, and Ford requesting substitution of the term "daylight opening" for "windshield opening" have merit, and they are therefore granted. These petitioners requested that the term "windshield opening" be replaced by the term "daylight opening", which is defined in paragraph 2.3.12 of section E, Ground Vehicle Practice, SAE Aerospace-Automotive Drawing Standards, September, 1963. The part of the windshield below the daylight opening is protected by the cowling and instrument panel. There is little likelihood that in a frontal crash any vehicle component will penetrate the cowling and instrument panel with sufficient force to pose a threat to the vehicle occupants. Therefore, the zone intrusion requirements of Standard No. 219 should only apply to the area of the windshield susceptible to actual penetration by vehicle components in a crash. Accordingly, the term "windshield opening" as it is used in Standard No. 219, is replaced by "daylight opening." The SAE definition of "daylight opening" has been slightly modified to reflect the particular characteristics of Standard No. 219.

The NHTSA has concluded that the petitions of General Motors and Jeep requesting a change in the effective date of Standard No. 219 should be granted in part and denied in part. The economic considerations involved in coordinating the effective date of Standard No. 219 with that of Standard No. 212, *Windshield Mounting*, justify postponement of the effective date to September 1, 1977, for application of Standard No. 219 to all vehicles except passenger cars. However, the effective date of September 1, 1976, will be retained for passenger cars because of their greater susceptibility to the intrusion of vehicle parts against which this standard is designed to protect. This postponement of effective dates also grants in part Jeep's petition requesting that the applicability of Standard No. 219 be postponed until final issuance of Standard No. 212.

In consideration of the foregoing, § 571.219 is amended by revising S4., S5., and S6.1(d) and by amending S6.2 of Standard No. 219, *Windshield Zone Intrusion*, to read as follows:

§ 571.219 Standard No. 219; Windshield zone intrusion.

* * * * *

S4. *Definitions.* "Daylight Opening" (DLO) means the maximum unobstructed opening through the glazing surface, including reveal or garnish moldings adjoining the surface, as measured parallel to the outer surface of the glazing material.

S5. *Requirement.* When the vehicle traveling longitudinally forward at any speed up to and including 30 mph impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, under the conditions of S7, no part of the vehicle outside the occupant compartment, except windshield molding and other components designed to be normally in contact with the windshield, shall penetrate the protected zone template, affixed according to S6, to a depth of more than one-quarter inch, and no such part of a vehicle shall penetrate the inner surface of that portion of the windshield, within the DLO, below the protected zone defined in S6.

S6. *Protected zone template.*

S6.1 * * *

(d) The lower edge of the protected zone is the longitudinal projection onto the outer surface of the windshield of the line determined in S6.1(c).

S6.2 * * *

(a) The outer surface of the windshield in its precrash configuration.

(b) The locus of points 3 inches outward along perpendiculars drawn to each point on the outer surface of the windshield.

(c) The locus of lines forming a 45° angle with the outer surface of the windshield at each point along the top and side edges of the outer surface of the windshield and the lower edge of the protected zone determined in S6.1, in the plane perpendicular to the edge at that point.

* * * * *

Effective date: September 1, 1976, for passenger cars; September 1, 1977, for multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds or less.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51)

Issued on November 10, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75-30756 Filed 11-13-75;8:45 am]

[Docket No. 75-1; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires for Passenger Cars

This amendment adds certain tire size designations to 49 CFR 571.109 (Federal Motor Vehicle Safety Standard No. 109).

Guidelines were published in the FEDERAL REGISTER on October 5, 1968 (33 FR 14964), and amended August 13, 1974 (39 FR 28980), specifying procedures by which routine additions could be made to Appendix A, § 571.109. Under these guidelines the additions become effective December 15, 1975, if no objections are received. If objections are received, rulemaking procedures for the issuance of motor vehicle safety standards (49 CFR Part 553) are followed.

Accordingly, Appendix A of 49 CFR § 571.109 is amended, subject to the 30-day provision indicated above, as specified below.

Effective date: December 15, 1975, if objections are not received.

The following changes are made to Appendix A of § 571.109, Standard No. 109; *New Pneumatic tires:*

Amendments requested by the European Tyre and Rim Technical Organisation:

§ 571.109 [Appendix amended]

A. A new Table I-BB, "40 Series" Radial Ply Tires, incorporating the following new tire size designation and corresponding values, is added.

TABLE I-BB

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "40 SERIES" RADIAL PLY TIRES

Tire size designation [1]	Maximum tire loads (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
285/40R15	890	950	1,010	1,070	1,120	1,170	1,220	1,270	1,320	1,360	1,410	1,450	1,490	9½	34.59	11.22

[1] The letters "H," "S," or "V" may be included in any tire size designation adjacent to the "R."

[2] Actual section width and overall width shall not exceed the specified section width by more than 7 pct.

B. A new Table I–CC, " 35 Series" Radial Ply Tires, incorporating the following new tire size designation and corresponding values, is added.

TABLE I–CC

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "35 SERIES" RADIAL PLY TIRES

tire size designation [1]	Maximum tire loads (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
345–35 R15	960	1,030	1,090	1,150	1,210	1,270	1,320	1,370	1,420	1,470	1,520	1,560	1,610	11½	34.59	13.58

[1] The letters "H," "S," or "V" may be included in any tire size designation adjacent to the "R."

[2] Actual section width and overall width shall not exceed the specified section width by more than 7 pct.

(Secs. 103, 119, 201 and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421 and 1422); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8).

Issued on November 6, 1975.

Motor Vehicle Programs.
ROBERT L. CARTER,
Associate Administrator,

[FR Doc.75–30562 Filed 11–13–75;8:45 am]

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 rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Extension of Period for Replacing Principal Residence for Purposes of Nonrecognition of Gain Under Section 1034

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 15, 1975. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedure of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by December 15, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1034 of the Internal Revenue Code of 1954 (relating to the nonrecognition of gain upon the sale or exchange of a residence) in order to conform such regulations to the provisions of section 207 of the Tax Reduction Act of 1975 (89 Stat. 32) and section 6(a) of the Act of January 2, 1975 (Pub. L. 93-597, 88 Stat. 1953). The proposed amendments extend the time periods which are taken into consideration in determining whether a taxpayer who disposes of his principal residence after December 31, 1974, and acquires another principal residence shall defer the recognition of gain upon the sale or exchange of the former residence. The proposed amendments also eliminate, for the period after June 30, 1973, the requirement that members of the U.S. Armed Forces serve during an induction period in order to qualify for special treatment under section 1034(h).

Under certain provisions of proposed § 1.1034-1 (b), (c), (d), (g), and (h), the period within which the taxpayer must purchase and use a new principal residence in order to qualify for nonrecognition of gain upon the sale of his former principal residence begins 18 months prior to the date of the sale of the former residence and ends 18 months after that date. If the taxpayer constructs a new principal residence, gain will not be recognized if the construction begins not later than 18 months after the date of the sale of the former residence and the taxpayer uses the new residence within two years after the date of the sale. Only those construction costs which are attributable to the period beginning 18 months before the date of the sale and ending two years after the date of the sale are taken into account under § 1.1034-1(b)(7). The proposed amendments also permit nonrecognition of gain on only one sale within an 18 month period.

For sales of residences prior to January 1, 1975, each period of 18 months described above is one year, and each period of two years is 18 months.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 1034 of the Internal Revenue Code of 1954 to section 207 of the Tax Reduction Act of 1975 (89 Stat. 32) and section 6(a) of the Act of January 2, 1975 (Pub. L. 93-597, 88 Stat. 1953), such regulations are amended as follows:

Paragraph 1. Section 1.1034 is amended by revising paragraphs (a), (c) (4) and (5), (d), and (h) of section 1034 and by revising the historical note. These amended provisions read as follows:

§ 1.1034 Statutory provisions; sale or exchange of residence.

Sec. 1034 *Sale or exchange of residence*—(a) *Non-recognition of gain.* If property (in this section called "old residence") used by the taxpayer as his principal residence is sold by him after December 31, 1953, and, within a period beginning 18 months before the date of such sale and ending 18 months after such date, property (in this section called "new residence") is purchased and used by the taxpayer as his principal residence, gain (if any) from such sale shall be recognized only to the extent that the taxpayer's adjusted sale price (as defined in subsection (b)) of the old residence exceeds the taxpayer's cost of purchasing the new residence.

* * * * *

(c) *Rules for application of section.* * * *

(4) If the taxpayer, during the period described in subsection (a), purchases more than one residence which is used by him as his principal residence at some time within 18 months after the date of the sale of the old residence, only the last of such residences so used by him after the date of such sale shall constitute the new residence.

(5) In the case of a new residence the construction of which was commenced by the taxpayer before the expiration of 18 months after the date of the sale of the old residence, the period specified in subsection (a), and the 18 months referred to in paragraph (4) of this subsection, shall be treated as including a period of 2 years beginning with the date of the sale of the old residence.

(d) *Limitation.* Subsection (a) shall not apply with respect to the sale of the taxpayer's residence if within 18 months before the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of subsection (a) of section 112(n) of the Internal Revenue Code of 1939.

* * * * *

(h) *Members of Armed Forces.* The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence. For purposes of this subsection, the term "extended active duty" means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

* * * * *

[Sec. 1034 as amended by sec. 46(b), Technical Amendments Act 1958 (72 Stat. 1642); sec. 206(b)(4), Rev. Act 1964 (78 Stat. 40); sec. 6(a), Act of Jan. 2, 1975 (Pub. Law 93-597, 88 Stat. 1953); sec. 207, Tax Reduction Act 1975 (89 Stat. 32)]

Par. 2. Section 1.1034-1 is amended by revising paragraphs (b)(7), (c)(1), (4)(ii) and (iii), (d)(1), (g)(1) and (4) and (h)(2)(ii). These amended provisions read as follows:

§ 1.1034–1 Sale or exchange of residence.

* * * * *

(b) *Definitions.* * * *

(7) "Cost of purchasing the new residence" means the total of all amounts which are attributable to the acquisition, construction, reconstruction, and improvements constituting capital expenditures, made during the period beginning 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) before the date of sale of the old residence and ending either (i) 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) after such date in the case of a new residence purchased but not constructed by the taxpayer, or (ii) two years (18 months in the case of a sale of an old residence prior to January 1, 1975) after such date in the case of a new residence the construction of which was commenced by the taxpayer before the expiration of 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) after such date (section 1034 (a), (c)(2) and (c)(5); for detailed explanation, see paragraph (c)(4) of this section; for special rule applicable in some cases to husband and wife, see paragraph (f) of this section; see also paragraph (b)(9) of this section for definition of "purchase").

* * * * *

(c) *Rules for application of section 1034*—(1) *General rule; limitations on applicability.* Gain realized from the sale (after December 31, 1953) of an old residence will be recognized only to the extent that the taxpayer's adjusted sales price of the old residence exceeds the taxpayer's cost of purchasing the new residence, provided that the taxpayer either (i) within a period beginning 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) before the date of such sale and ending 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) after such date purchases property and uses it as his principal residence, or (ii) within a period beginning 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) before the date of such sale and ending two years (18 months in the case of a sale of an old residence prior to January 1, 1975) after such date uses as his principal residence a new residence the construction of which was commenced by him at any time before the expiration of 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) after the date of the sale of the old residence (section 1034(a) and (c)(5); for detailed explanation of use as "principal residence" see subparagraph (3) of this paragraph). The rule stated in the preceding sentence applies to a new residence purchased by the taxpayer before the date of sale of the old residence provided the new residence is still owned by him on such date (section 1034(c)(3)). Whether the construction of a new residence was commenced by the taxpayer before the expiration of 18 months (one year in the case of sale of an old residence prior to January 1, 1975) after the date of the sale of the old residence will depend upon the facts and circumstances of each case. Section 1034 is not applicable to the sale of a residence if within the previous 18 months (previous year in the case of a sale of an old residence prior to January 1, 1975) the taxpayer made another sale of residential property on which gain was realized but not recognized (section 1034(d)). For further details concerning limitations on the application of section 1034, see paragraph (d) of this section.

* * * * *

(4) *Cost of purchasing new residence.* * * *

(ii) The taxpayer's cost of purchasing the new residence includes only so much of such cost as is attributable to acquisition, construction, reconstruction, or improvements made within the period of three years or 42 months (two years or 30 months in the case of a sale of an old residence prior to January 1, 1975), as the case may be, in which the purchase and use of the new residence must be made in order to have gain on the sale of the old residence not recognized under this section. Thus, if the construction of the new residence is begun three years before the date of sale of the old residence and completed on the date of sale of the old residence, only that portion of the cost which is attributable to the last 18 months (last year in the case of a sale of an old residence prior to January 1, 1975) of such construction constitutes the taxpayer's cost of purchasing the new residence, for purposes of section 1034. Furthermore, the taxpayer's cost of purchasing the new residence includes only such amounts as are properly chargeable to capital account rather than to current expense. As to what constitutes capital expenditures, see section 263.

(iii) The provisions of this subparagraph may be illustrated by the following example:

Example. M began the construction of a new residence on January 15, 1974, and completed it on October 14, 1974. The cost of $45,000 was incurred ratably over the 9-month period of construction. On December 14, 1975, M sold his old residence and realized a gain. In determining the extent to which the realized gain is not to be recognized under section 1034, M's cost of constructing the new residence shall include only the $20,000 which was attributable to the June 15–October 14, 1974, period (4 months at $5,000). The $25,000 balance of the cost of constructing the new residence was not attributable to the period beginning 18 months before the date of the sale of the old residence and ending two years after such date and, under section 1034, is not properly a part of M's cost of constructing the new residence.

(d) *Limitations on application of section 1034.* (1) If a residence is purchased by the taxpayer prior to the date of the sale of the old residence, the purchased residence shall, in no event, be treated as a new residence if such purchased residence is sold or otherwise disposed of by him prior to the date of the sale of the old residence (section 1034(c)(3)). And, if the taxpayer, during the period within which the purchase and use of the new residence must be made in order to have any gain on the sale of the old residence not recognized under this section, purchases more than one property which is used by him as his principal residence during the 18 months (or two years in the case of the construction of the new residence) succeeding the date of the sale of the old residence, only the last of such properties shall be considered a new residence (section 1034(c)(4)). In the case of a sale of an old residence prior to January 1, 1975, the period of 18 months (or two years) referred to in the preceding sentence shall be one year (or 18 months). If within 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) before the date of the sale of the old residence, the taxpayer sold other property used by him as his principal residence at a gain, and any part of such gain was not recognized under this section or section 112(n) of the Internal Revenue Code of 1939, this section shall not apply with respect to the sale of the old residence (section 1034(d)).

* * * * *

(g) *Members of Armed Forces.* (1) Section 1034(h) provides a special rule for members of the Armed Forces with respect to the period after the sale of the old residence within which the acquisition of a new residence may result in a non-recognition of gain on such sale. The running of the period of 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) after the sale of the old residence in the case of the purchase of a new residence, or the period of two years (18 months in the case of a sale of an old residence prior to January 1, 1975) after such sale in the case of the construction of a new residence, is suspended during any time that the taxpayer serves on extended active duty with the Armed Forces of the United States. (This paragraph applies to time served on extended active duty prior to July 1, 1973, only if such extended active duty occurred during an induction period as defined in section 112(c)(5) as in effect prior to July 1, 1973.) However, in no event may such suspension extend for more than four years after the date of the sale of the old residence the period within which the purchase or construction of a new residence may result in a nonrecognition of gain. For example, if the taxpayer is on extended active duty with the Army from January 1, 1975, to June 30, 1976, and if he sold his old residence on January 10, 1975, the latest date on which the taxpayer may use a new residence constructed by him and have any part of the gain on the sale of his old residence not recognized under this section is June 30, 1978 (the date two years following the taxpayer's termination of active duty). However, if this taxpayer were on extended active duty with the Army from January 1, 1975, to December 31,

1978, the latest date on which he might use a new residence constructed by him and have any part of the gain on the sale of his old residence not recognized under this section would be January 10, 1979 (the date four years following the date of the sale of the old residence).

* * * * *

(4) The running of the period of 18 months (or two years) after the date of sale of the old residence referred to in section 1034(c)(4) and in paragraph (d) of this section is not suspended. The running of the 18-month period prior to the date of the sale of the old residence within which the new residence may be purchased in order to have gain on the sale of the old residence not recognized under this section is also not suspended. In the case of a sale of an old residence prior to January 1, 1975, the periods of 18 months (or two years) referred to in each of the two preceding sentences shall be one year (or 18 months).

* * * * *

(h) *Special rules for involuntary conversions.* * * *

(2) *Election to treat condemnation of personal residence as sale.* * * *

(ii) If the taxpayer elects to be governed by the provisions of section 1034, section 1033 will have no application. Thus, a taxpayer who elects under section 1034(i)(2) to treat the seizure, requisition, or condemnation of his principal residence (but not the destruction), or the sale or exchange of such residence under threat or imminence thereof, as a sale for the purposes of section 1034 must satisfy the requirements of section 1034 and this section. For example, under section 1034 a taxpayer generally must replace his old residence with a new residence which he uses as his principal residence, within a period beginning 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) before the date of disposition of his old residence, and ending 18 months (one year in the case of a sale of an old residence prior to January 1, 1975) after such date. However, in the case of a new residence the construction of which was commenced by the taxpayer within such period, the replacement period shall not expire until 2 years (18 months in the case of a sale of an old residence prior to January 1, 1975) after the date of disposition of the old residence.

* * * * *

[FR Doc.75-30796 Filed 11-13-75;8:45 am]

[26 CFR Part 31]

EMPLOYMENT TAXES

Invalid and Questionable Withholding Exemption Certificates; Public Hearing

Proposed regulations under sections 3401 and 3402 of the Internal Revenue Code of 1954, relating to withholding exemption certificates, appear in this issue of the FEDERAL REGISTER (40 FR 53037).

A public hearing on the provisions of such proposed regulations will be held on December 19, 1975, beginning at 10 a.m., e.s.t., in the George S. Boutwell Auditorium, Seventh Floor, 1400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3) persons who submit written comments or suggestions within the time prescribed in the notice of proposed rule making, and who desire to present oral comments at the hearing on such proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by December 12, 1975. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Under § 601.601(a)(3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of this agenda will be available free of charge at the hearing and information with respect to its contents may be obtained on December 18, 1975, by telephoning (Washington, D.C.) 202-964-3935.

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

[FR Doc.75-30998 Filed 11-13-75;8:45 am]

[26 CFR Part 31]

INVALID AND QUESTIONABLE WITHHOLDING EXEMPTION CERTIFICATES

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 15, 1975. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at the public hearing which will be held on these proposed regulations should submit a request, in writing, to the Commissioner by December 12, 1975. Notice of the time, place, and date of the public hearing and other details relating thereto is published simultaneously herewith. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under sections 3401 and 3402 of the Internal Revenue Code of 1954 in order to provide procedures for employers who receive invalid or questionable employee's withholding exemption certificates (Forms W-4 and W-4E). The amendments contained in this document apply only with respect to withholding exemption certificates received by the employer after the date which is 30 days after the date of publication of final regulations on this subject.

The proposed amendments provide that a withholding exemption certificate which has been altered or one which the employee clearly indicates to be false by a written or oral statement to the employer on the date on which the employee submits the certificate is invalid. The employer must consider such a certificate to be a nullity for purposes of computing withholding; the employer must inform the employee that the certificate is invalid and, unless a prior certificate is in effect with respect to such employee, request another certificate from the employee. If the employee fails to comply with the employer's request, the employer must promptly report the matter to the district director. If the employer has any doubt as to whether a particular certificate is invalid, he must treat the certificate as a questionable certificate and comply with the instructions relating to questionable certificates.

The proposed amendments provide that a withholding exemption certificate is a questionable certificate if the employer has reason to believe that the number of withholding exemptions claimed on the certificate is excessive or that any statement on the Form W-4E is not true. The employer who receives a questionable certificate is required to submit to the district director a copy of the questionable certificate together with an explanation of why he believes that it is questionable. Prior to receipt of instructions from the district director, the employer must withhold on the basis of the statements made in the question-

able certificate. If the district director finds that a withholding exemption certificate contains any false statement and so advises the employer, the employer shall thereafter treat the certificate as a nullity.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to provide procedures for employers who receive invalid or questionable employee's withholding exemption certificates, the Employment Tax Regulations under sections 3401 and 3402 of the Internal Revenue Code of 1954 are amended, effective with respect to withholding exemption certificates received by the employer after the date which is 30 days after the date of publication of final regulations on this subject, as follows:

PARAGRAPH 1. Section 31.3401(e)–1 is amended by deleting paragraph (b) and by revising paragraph (c) and redesignating paragraph (c) as paragraph (b). This revised and redesignated provision reads as follows:

§ 31.3401(e)–1 Number of withholding exemptions claimed.

* * * * *

(b) As to the number of withholding exemptions to which an employee is entitled, see § 31.3402(f)(1)–1. For rules relating to invalid and questionable withholding exemption certificates, see § 31.3402(f)(2)–1(e).

PAR. 2. Section 31.3402(f)(2)–1 is amended by adding a new paragraph (e) at the end thereof. This added provision reads as follows:

§ 31.3402(f)(2)–1 Withholding exemption certificates.

* * * * *

(e) *Invalid and questionable withholding exemption certificates*—(1) *Invalid certificates.* Any withholding exemption certificate which has been altered is invalid; see § 31.3402(f)(5)–1. Any withholding exemption certificate which the employee clearly indicates to be false by a written or oral statement made by him to the employer on the date on which the employee submits such certificate to the employer is invalid. If an employer receives an invalid withholding exemption certificate, he shall consider it a nullity for purposes of computing withholding; he shall inform the employee who submitted the certificate that it is invalid, and shall request another withholding exemption certificate from such employee unless a prior certificate is in effect with respect to such employee. If the employee who submitted the invalid certificate fails to comply with the employer's request, the employer shall promptly report the matter to the district director. If the employer has any doubt as to whether a withholding exemption certificate is invalid, he shall treat such certificate as a questionable certificate and comply with the provisions of paragraph (e)(2) of this section.

(2) *Questionable certificates.* If at any time the employer has reason to believe that the number of withholding exemptions claimed by an employee on a withholding exemption certificate is greater than the number to which such employee is entitled or that any statement made on a withholding exemption certificate on Form W–4E is false (see § 31.3402(n)–1), such withholding exemption certificate is a questionable certificate. The employer shall promptly submit to the district director a copy of any questionable certificate together with an explanation of why he believes that it is questionable. Prior to receipt of instructions from the district director, the employer shall withhold on the basis of the statements made in such certificate. If the district director finds that a withholding exemption certificate contains any false statements and so advises the employer, the employer shall thereafter treat the certificate as a nullity.

(3) *Effective date.* This paragraph applies only with respect to withholding exemption certificates received by the employer after [date which is 30 days after the date of publication of final regulations on this subject].

PAR. 3. Section 31.3402(f)(5)–1 is amended to read as follows:

§ 31.3402(f)(5)–1 Form and contents of withholding exemption certificate.

(a) Forms W–4 and W–4E are the forms prescribed for the withholding exemption certificate required to be filed under section 3402(f)(2). Form W–4 is the form to be used unless the employee desires, in accordance with the provisions of § 31.3402(f)(2)–1, to use a withholding exemption certificate which contains the statements described in § 31.3402(n)–1, in which case Form W–4E is the form to be used. A withholding exemption certificate shall be prepared in accordance with the instructions and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. Blank copies of Forms W–4 and W–4E will be supplied employers upon request to the district director. In lieu of the prescribed form, employers may prepare and use a form the provisions of which are identical with those of the prescribed form.

(b) A Form W–4 or W–4E which has been altered does not meet the requirements of section 3402(f)(5) or this section and is invalid. For purposes of § 31.3402(f)(2)–1(e)(1) and this paragraph, any addition to, deletion from, or material defacing of the prescribed exemption certificate is an alteration.

PAR. 4. Section 31.3402(n)–1 is amended by adding a sentence immediately before example (1) to read as follows:

§ 31.3402(n)–1 Employees incurring no income tax liability.

* * * See § 31.3402(f)(2)–1(e) for rules relating to invalid and questionable withholding exemption certificates.

* * * * *

[FR Doc.75–30997 Filed 11–13–75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1060, 1061, 1068, 1069, 1076]

[Docket Nos. AO–178–A33, etc.]

MILK IN THE MINNEAPOLIS-ST. PAUL AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders; Correction

In FR Doc. 75–28832 appearing at page 50392 in the FEDERAL REGISTER of Wednesday, October 29, 1975, § 1076.2 appearing on page 50428 is corrected by adding to the list of South Dakota counties the counties of Brookings and Deuel.

Dated: November 10, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75–30726 Filed 11–13–75;8:45 am]

[7 CFR Part 1096]

[Docket No. AO–257–A26]

MILK IN THE NORTHERN LOUISIANA MARKETING AREA

Notice of Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Northern Louisiana marketing area which was issued October 22, 1975 (40 FR 50076) is hereby extended to December 1, 1975.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: November 11, 1975.

WILLIAM H. WALKER, III,
Deputy Administrator
Program Operations.

[FR Doc.75–30789 Filed 11–13–75;8:45 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 793]

RULE OF FRACTIONS

Proposed Change in Rounding of Fractions

In order to utilize the automatic rounding feature of modern desk calculators, the Agricultural Stabilization and Conservation Service (ASCS) proposes to change its basic rule of fractions contained in 7 CFR Part 793. The proposed rule would require the rounding upward

of all fractions of 0.5 and greater. The present rule requires the rounding upward of fractions greater than 0.5.

Electronic calculators generally contain a feature which automatically drops fractional digits of 49 or less and rounds fractional digits of 50 or more beyond the required number of decimal places. The use of these calculators is becoming widespread in ASCS offices. The proposed change in the rounding of fractions would facilitate the computation of program payments and other mathematical determinations required in the administration of programs under Title 7 of the Code of Federal Regulations.

Comments on this proposal may be submitted in writing to the Director, Program Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection between 8:15 a.m. and 4:45 p.m., Monday through Friday, at the Office of the Director, Room 3629, South Building, 14th Street and Independence Avenue, Washington, D.C.

The following proposed reissuance of Part 793 deletes reference to "wheat marketing certificates" in conformity with the Agriculture and Consumer Protection Act of 1973 (87 Stat. 226):

Sec.
793.1 Applicability.
793.2 Basic rule of fractions.
793.3 Payments to producers.

AUTHORITY: Sec. 4, 49 Stat. 164, 16 U.S.C. 590d; sec. 16(1), 79 Stat. 1190, 16 U.S.C. 590p (1); sec. 105(e), 79 Stat. 1188, as amended, 7 U.S.C. 1441 note; sec. 602(q), 79 Stat. 1210, 7 U.S.C. 1838(q); sec. 375, 52 Stat. 66, as amended, 7 U.S.C. 1375; sec. 379j, 76 Stat. 630, 7 U.S.C. 1379j; sec. 103(d), 79 Stat. 1194, 7 U.S.C. 1444(d); sec. 203(g), 79 Stat. 13, 40 U.S.C. App. A; secs. 4 and 5, 62 Stat. 1070, 15 U.S.C. 714 b and c; sec. 401, 63 Stat. 1054, 7 U.S.C. 1421; sec. 706, 68 Stat. 912, 7 U.S.C 1785; sec. 403, 61 Stat. 932, 7 U.S.C. 1153.

§ 793.1 Applicability.

This part is applicable to the acreage allotment and marketing quota programs and to all other programs set forth in this Title 7 administered by the Agricultural Stabilization and Conservation Service under which price support is extended or payments are made to farmers, except that it does not apply to the pricing and sales of agricultural commodities and it does not apply to the determination of acreage when a different rule is specifically provided in Part 718 of this chapter.

§ 793.2 Basic rule of fractions.

In making mathematical determinations all computations shall be carried to two decimal places beyond the required number of decimal places as specified in the regulations governing each program. In rounding, fractional digits of 49 or less beyond the required number of decimal places shall be dropped; if the fractional digits beyond the required number of decimal places are 50 or more, the figure at the last required decimal place shall be increased by "1" as follows:

Required decimal	Computation	Result
Whole numbers	6.49 (or less)	6
	6.50 (or more)	7
Tenths	7.649 (or less)	7.6
	7.650 (or more)	7.7
Hundredths	8.8449 (or less)	8.84
	8.8450 (or more)	8.85
Thousandths	9.63449 (or less)	9.634
	9.63450 (or more)	9.635
10 thousandths	10.993149 (or less)	10,9931
	10.993150 (or more)	10,9932

§ 793.3 Payments to producers.

Notwithstanding any other provision of this part, if due to the rounding of fractions the sum of the payments distributed among producers does not equal the total amount earned under the program, the payments shall be adjusted in order that the sum thereof will equal such total amount.

Signed at Washington, D.C., on November 7, 1975.

E. J. PERSON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.75-30793 Filed 11-13-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 8]

[Docket No. 75N-0329]

PROVISIONALLY LISTED COLOR ADDITIVES

Proposed Postponement of Closing Dates

The Commissioner of Food and Drugs on his own initiative is proposing to postpone the closing date for the use of provisionally listed color additives until September 30, 1976. Comments must be received by December 5, 1975.

Under Title II of the Color Additive Amendments of 1960 (sec. 203(a)(2), Pub. L. 86-618, 74 Stat. 404 (21 U.S.C. 376 note)) and under authority delegated to him (21 CFR 2.120), the Commissioner is authorized to postpone the closing date of a provisional listing of a color additive on his own initiative or upon the application of an interested person. Section 203(d)(1) of Title II requires promulgation, insofar as practical, of a current listing of color additives and the particular uses thereof deemed provisionally listed.

The current closing date was established by a regulation published in the FEDERAL REGISTER of April 4, 1975 (40 FR 15087), as "December 31, 1975, or until a new closing date is established." The Commissioner finds that, in his judgment, postponing the closing date until September 30, 1976, is consistent with the objective of carrying to completion, in good faith and as soon as reasonably practicable, the scientific investigations necessary for making a determination as to listing these color additives under section 706 of the Federal Food, Drug, and Cosmetic Act. Review of the data submitted to establish whether these color additives may be listed under section 706 of the act is underway, and a final determination for many of the provisionally listed color additives is expected to be completed prior to September 30, 1976. If appropriate, the closing date will be further postponed for individual color additives for which a final determination on listing cannot be made by that time.

Nothing in this proposed action affects the Commissioner's authority under the transitional provisions of the Color Additive Amendments of 1960 to terminate a closing date, terminate a listing, or impose restrictions with respect to a specific color additive on the provisional list.

The final regulation is proposed to be made effective upon publication so as to permit the uninterrupted use of the affected color additives.

The Commissioner has reviewed the proposed regulation and has found no major inflation impact as defined in Executive Order 11821, OMB Circular A-107, and interim guidelines issued April 1, 1975, by the Department of Health, Education, and Welfare. The proposed regulation would simply continue current practices and consequently would have no economic impact.

The Commissioner has also reviewed the proposed regulation pursuant to 21 CFR Part 6 and concludes that it will not significantly affect the quality of the human environment. The proposed regulation would simply continue current practices for a short period of time and consequently would have no significant environmental impact.

Because of the necessity of reviewing comments and issuing a final regulation by December 31, 1975, comments must be received by December 5, 1975.

§ 8.501 [Amended]

Therefore, under the transitional provisions accompanying the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (sec. 203(a)(2), (d)(1), Title II, Pub. L. 86-618; 74 Stat. 404-405 (21 U.S.C. 376 note)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 8 be amended in § 8.501 *Provisional lists of color additives* by changing the closing dates for the color additives listed in paragraphs (a), (b), (c), (e), (f), and (g) to read "September 30, 1976."

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments regarding this proposal. To be considered, comments must be received by the Hearing Clerk by December 5, 1975. Comments delivered in person to the Food and Drug Administration, Rm. 6819, 200 C St. SW., Washington, DC 20201, shall be considered as received by the Hearing Clerk on the date on which they are logged in at Rm. 6819. Comments should be filed preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments

may be seen in the office of the Hearing Clerk during working hours, Monday through Friday.

It is hereby certified that the economic and inflationary impact of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821.

Dated: November 12, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-31013 Filed 11-13-75;9:22 am]

[21 CFR Parts 610, 640]

[Docket No. 75N-0316]

WHOLE BLOOD AND RED BLOOD CELLS

Label Statement to Distinguish Volunteer From Paid Blood Donors

The Commissioner of Food and Drugs is proposing to amend the biologics regulations to require that licensed and unlicensed whole blood and red blood cells bear (1) a statement distinguishing blood from volunteer donors and blood from paid donors, and (2) a warning that blood collected from paid donors is associated with a higher risk of transmitting hepatitis than blood from volunteer donors. Interested persons have until January 13, 1975.

In March 1972, the President called upon the Department of Health, Education, and Welfare (DHEW) to make an intensive study about, and to recommend a plan for, developing a safe, fast, and efficient national blood collection and distribution system. Subsequently, a DHEW task force, appointed by the Assistant Secretary of Health, identified the major problem areas in the existing blood collection and distribution system and made recommendations that were incorporated into a National Blood Policy published in the FEDERAL REGISTER of March 8, 1974 (39 FR 9326).

The history and development of the National Blood Policy is set forth in the Secretary's response to the implementation plan, which was published in the FEDERAL REGISTER of September 10, 1974 (39 FR 32702).

The National Blood Policy established four goals designed to correct deficiencies in the present system. One of these goals was to improve the quality of national supply of blood and blood products. The National Blood Policy recognizes that reliance upon commercial sources of blood and blood components for transfusion therapy has contributed to a significantly disproportionate incidence of hepatitis, since such blood is often collected from sectors of society in which transmissible hepatitis is more prevalent. For this reason, the National Blood Policy encourages efforts to bring into being an all-voluntary blood donation system and to eliminate commercialism in the acquisition of whole blood and whole blood components. It should be noted that the goal of an all-voluntary blood donation system was not first proposed in the National Blood Policy. For over 25 years numerous health-related organizations have been committed to encouraging a voluntary blood donation system, which would increase the quantity and quality of the national supply of blood and blood products. In addition, three major organizations dedicated to the development of high standards of donor protection and blood transfusion therapy—the American Association of Blood Banks, the American Red Cross, and the Council of Community Blood Centers—have fully endorsed the National Blood Policy's goal to bring into being an all-voluntary blood donation system in the acquisition of blood for transfusion therapy.

In response to the National Blood Policy, the private sector proposed the creation of the American Blood Commission, an amalgam of lay and professional organizations, representing the American Federation of Labor-Congress of Industrial Organizations, American Association of Blood Banks, American Heart Association, American Hospital Association, American Medical Association, American National Red Cross, American Society of Clinical Pathologists, Blue Cross Association, College of American Pathologists, Council of Community Blood Centers, Chamber of Commerce of the United States, National Hemophilia Foundation, Pharmaceutical Manufacturers Association, and others pledged to achieve the goals of the National Blood Policy. The American Blood Commission held its inaugural convention in April 1975 and has labored diligently to implement the objectives of the National Blood Policy. The Commission also gave its support to the implementation of an all-voluntary blood donation system to improve the quality of the national supply of blood and blood products. Accomplishment of this goal is expected to reduce the risk of transmitting viral hepatitis, type B, following transfusion therapy.

Viral hepatitis, type B, is a disease marked by acute liver dysfunction with malaise, anorexia, nausea and vomiting, enlargement of the liver and jaundice, usually self-limited in course but sometimes leading to chronic liver disease and death. The disease may be transmitted to patients by transfusion of blood, plasma, or serum infected with hepatitis B virus. Hepatitis B surface Antigen (HB_sAg) is a component on the surface of the virus, and detection of HB_sAg in blood, plasma, or serum is a valid indication of the presence of hepatitis B virus. To reduce the risk of transmitting viral hepatitis, type B, Food and Drug Administration has required, under § 610.40 (21 CFR 610.40), that each donation of human blood, plasma, or serum to be used in preparing a biological product be tested for the presence of HB_sAg. Section 610.41 (21 CFR 610.41) requires that those units found to be positive for HB_sAg cannot be used for manufacturing injectable biological products, including whole blood and red blood cells for transfusion, and donors who have tested positive may not serve as donors for any such products. Although there has been a continuing evolution of methodology towards more sensitive methods of detecting HB_sAg, the most sensitive methods presently available and that required by § 610.40 (methods of third generation sensitivity), still do not detect the lowest level of HB_sAg in blood. Accordingly, the risk of transmitting viral hepatitis, type B, has been reduced but not eliminated.

The Commissioner is proposing labeling requirements for Whole Blood (Human) and Red Blood Cells (Human) that would distinguish blood from volunteer donors and blood from paid doners. The Commissioner concludes that the proposed labeling requirements will promote the use of blood from donors from sectors of society in which transmissible viral hepatitis, type B, is less prevalent, thereby reducing the risk of hepatitis associated with transfusion therapy.

This finding is supported by the published data indicating that blood from donors from commercial blood banks is more likely to contain HB_sAg than blood from volunteer donors and that the incidence of posttransfusion hepatitis is significantly greater in recipients of blood from paid donors than from recipients of blood from volunteer donors. These data have been developed in various statistical approaches. Four of the main forms in which the data have been developed are set forth below.

A. *Incidence of posttransfusion hepatitis from use of HB_sAg untested blood.* The risk of transmitting posttransfusion hepatitis from use of HB_sAg untested blood from paid donors has been shown to be significantly greater than the risk from use of HB_sAg untested blood from volunteer donors. In a study conducted in New Jersey, 350 cases of hepatitis were observed in recipients of 183,312 paid donor units (Ref. 15). In contrast, significantly fewer cases (217) were observed in recipients of twice as many volunteer blood units (Ref. 15). The results of this study are that the risk of transmitting posttransfusion hepatitis from use of HB_sAg untested blood from paid donors is 3.2 times greater than the risk from use of HB_sAg untested blood from volunteer donors. Similarly, in a study at the National Institutes of Health, 42 of 85 (57 percent) prospectively followed patients who received HB_sAg untested blood from paid donors during cardiovascular surgery developed posttransfusion hepatitis. In contrast, none of the patients who received HB_sAg untested blood from volunteer donors developed posttransfusion hepatitis (Ref. 6). Other published studies indicate that there is a 3- to 10-fold greater risk of posttransfusion hepatitis in recipients of HB_sAg untested blood from paid donors than in recipients of HB_sAg untested blood from volunteer donors (Refs. 1, 2, 3, 5, 7, 8, and 9).

The results of these studies are not surprising in light of the published data resulting from HB_sAg testing of blood from paid donors and volunteer donors.

B. *Prevalence of HB_sAg in donor blood.* The prevalence of donor blood found reactive for HB_sAg is significantly greater in blood from paid donors than in blood

from volunteer donors. In one study, 48,502 units of blood from paid donors were tested for HB_sAg and 685 units were found reactive. In contrast, 83,196 units of blood from volunteer donors were tested and only 182 units were found reactive (Ref. 15). The results of this study indicate that the prevalence of HB_sAg in blood from paid donors is 6.4 times greater than in blood from volunteer donors. In a study conducted in New York City, involving 2,306 units of blood from paid donors and 89,536 units of blood from volunteer donors, the prevalence of HB_sAg in blood from paid donors was 12 times greater than in blood from volunteer donors (Ref. 9).

C. *Incidence of posttransfusion hepatitis from use of HB_sAg tested blood.* The incidence of posttransfusion hepatitis from use of blood found nonreactive to HB_sAg after testing has been shown to be significantly greater from use of blood from paid donors than from use of blood from volunteer donors. In a study conducted in 1972–73, involving 39,462 units of blood from paid donors and 278,171 units of blood from volunteer donors, it was demonstrated that although all blood units were tested and found nonreactive for HB_sAg, the risk of transmitting posttransfusion hepatitis from use of blood from paid donors was 2.4 times greater than the risk from use of blood from volunteer blood donors (Ref. 15).

In a more recent study conducted in 1974, 6 cases of hepatitis were found in 101 recipients of 233 units of blood from paid donors. In contrast, only 1 case of hepatitis was found in 364 recipients of 1,066 units of blood from volunteer donors. This study further establishes that the risk of transmitting posttransfusion hepatitis from use of blood from paid donors is significantly higher than the risk from volunteer blood donors. In this study, the single case of posttransfusion hepatitis in the recipients of blood from volunteer donors and one of the six cases of posttransfusion hepatitis in recipients of blood from paid donors, were caused by hepatitis B virus. The remaining five cases of posttransfusion hepatitis resulting from use of blood from paid donors were caused by some other as yet unidentified agent (Ref. 15). Other studies demonstrate that the high posttransfusion hepatitis risk associated with blood from paid donors has persisted despite optimal HB_sAg testing (Refs. 13, 14, and 15).

The most compelling evidence of the relationship between the risk of transmitting hepatitis and the donation of paid, as opposed to volunteer, blood is that data showing a marked decrease of posttransfusion hepatitis in studies where the paid donor has been eliminated as a source of blood.

D. *Incidence of posttransfusion hepatitis after eliminating use of blood from paid donors.* The incidence of posttransfusion hepatitis has been shown to decrease significantly as blood from paid donors for transfusion therapy is replaced with blood from volunteer donors. In a study conducted at the Hines Veterans Administration Hospital, Chicago, IL, 20.8 percent of transfused patients developed posttransfusion hepatitis from 1968–70, when 92 percent of the hospital blood supply was obtained from paid donors. However, the incidence of hepatitis decreased by 62 percent, to a rate of 7.9 percent of transfused patients, when 96 percent of the hospital's blood supply was obtained from volunteer donors (Ref. 12). Similarly, in New Jersey, when the proportion of blood obtained from paid donors decreased from 31 percent in 1970 to 9.0 percent in 1973, the number of overt cases of posttransfusion hepatitis during this period decreased correspondingly from 424 (one per 117 transfused patients) in 1970 to 159 (one per 284 transfused patients) in 1973. In addition, during 1961–70 and 1971–73, the rate of fatalities resulting from posttransfusion hepatitis decreased from 12.9 percent to 7.2 percent, respectively.

The published studies demonstrate that blood collected from paid donors and blood from volunteer donors are distinguishable in terms of a potential hazard and that elimination of blood from paid donors would have a greater impact on the incidence of posttransfusion hepatitis than any other available measure, including HB_sAg testing. The high posttransfusion hepatitis risk associated with blood from paid donors is not due to the exchange of money between blood bank and blood donor. Rather, it is because paid donors in many parts of the country come from sectors of society in which transmissible hepatitis is particularly prevalent. Published epidemiologic studies demonstrate a striking inverse correlation between rates of HB_sAg and antibody prevalences and socio-economic level. That is, high rates of HB_sAg infection are more common in paid donors in the lower socio-economic level (Refs. 9, 16, 17, and 18). A number of the studies cited above demonstrate that posttransfusion hepatitis may be caused by hepatitis B virus, as well as by some other as yet unidentified agent(s) for which there is no practical testing method. The other agent(s), like hepatitis B virus, appears to be more common in paid donors than in volunteer donors. At the present time, the only available means for reducing the risk of posttransfusion hepatitis due to the unidentified agent(s) is the elimination of blood from paid donors.

The Commissioner's proposal to require affirmative disclosure as to the source of whole blood and red blood cells is supported by the law applicable to these products.

Blood and blood components are biological products subject to regulation pursuant to section 351 of the Public Health Service Act (42 U.S.C. 262) and are also drugs as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

Since blood and blood components are drugs, they must meet all statutory requirements of the Federal Food, Drug, and Cosmetic Act and are subject to the full extent of regulation pursuant to all provisions of the act.

The proposed regulations require that the labeling for licensed and unlicensed whole blood and red blood cells distinguishes between paid and volunteer donors as the source of the blood and that the labels carry a warning regarding the higher risks of transmitting hepatitis from use of blood from paid donors. As has been shown, this information is a material fact about the quality of the blood and the potential adverse consequences of its use. Failure to reveal this fact would render the labeling misleading within the meaning of section 201(n) of the Federal Food, Drug, and Cosmetic Act and misbranded within the meaning of section 502(a) which provides that a drug is misbranded if its labeling is false or misleading in any particular. Also, section 502(f) of the act requires adequate directions for use and adequate warnings. Blood from paid donors carries a greater risk of transmitting hepatitis than blood from volunteer donors, and a label statement is necessary to provide physicians adequate and clear warnings to be on sufficient notice of this fact.

The jurisdiction of the act is not limited to situations where the drug itself has been, or is to be, introduced into interstate commerce. Consistent with section 201(g)(1)(D) of the act, if one of the drug's essential components such as the anticoagulent solution has moved in interstate commerce, the entire drug is subject to the requirements of the act and the FDA may regulate the final drug product. *United States* v. *40 Cases * * * Pinocchio Brand * * * Pure Olive Oil*, 289 F.2d 343 (C.A. 2, 1961), *cert. denied* 368 U.S. 831; *United States* v. *39 Cases * * * Michigan Brand Korleen Tablets*, 192 F. Supp. 51 (E.D. Mich., 1961), *aff'd. sub nom.: United States* v. *Detroit Vital Foods*, 330 F.2d 78 (C.A. 6, 1964), *cert. denied* 379 U.S. 832; *Palmer* v. *United States*, 340 F.2d 48 (C.A. 5, 1964), *cert. denied* 382 U.S. 903.

All blood and blood components that are offered for sale in interstate commerce are also subject to section 351 of the Public Health Service Act. All manufacturers must have a license that has been issued upon a showing that the manufacturing establishment and its products meet all applicable standards, prescribed in the biologics regulations, designed to ensure the continued safety, purity, and potency of the blood.

Pursuant to section 351(d) of the Public Health Service Act, regulations may be promulgated to assure proper labeling for many biological products, including licensed blood products such as Whole Blood (Human) and Red Blood Cells (Human). These proposed labeling requirements are authorized by this provision of the act.

In addition, section 351(b) of the Public Health Service Act prohibits the false labeling or marking of any package or container of any biological product, such as Whole Blood (Human) and Red Blood Cells (Human). The false labeling provisions of both acts were designed to accomplish substantially the same result, and the Commissioner con-

cludes that they should be so interpreted and applied. Significantly, section 351 (b) contains no interstate commerce requirement. It applies to all blood, whether or not it has moved or is offered for sale in interstate commerce. *United States* v. *Calise*, 217 F. Supp. 705 (S.D. N.Y., 1962), and *United States* v. *Steinschreiber*, 218 F. Supp. 426 (S.D. N.Y., 1962), 219 F. Supp. 373 (S.D. N.Y., 1963), *aff'd.* 326 F. 2d 759 (C.A. 2, 1964), *cert denied* 376 U.S. 962. These statutory provisions also authorize standards for labeling for all whole blood and red blood cells in interstate and intrastate commerce. Blood from paid donors is more dangerous, in that it is more likely to result in posttransfusion hepatitis, than blood from volunteer donors. Accordingly, whole blood and red blood cells collected from paid donors are "falsely labeled or marked" when their labels do not contain explicit warnings and affirmative statements as to their collection from paid donors or volunteer donors.

Pursuant to section 361 of the Public Health Service Act (42 U.S.C. 264) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs is authorized to promulgate regulations for any measures that, in his judgment, may be necessary to prevent the introduction, transmission, or spread of blood-related communicable disease from one state to another. Of necessity, this authority must be exercised upon the disease-causing substance within the state where it is collected, manufactured, or otherwise found. Thus, the Commissioner may promulgate regulations for intrastate blood labeling pursuant to the act, as hepatitis is a communicable disease.

The Commissioner believes that the proposed labeling requirement will not adversely affect the availability of blood for transfusion therapy nor will it eliminate the practice of paying low-risk donors. Rather, it will identify all units of blood as to their collection from paid or volunteer donors and encourage blood banks which pay their donors to present practical evidence demonstrating that their paid donor population is as safe as the volunteer donor population. This information is critical to a physician's exercise of his or her best clinical judgment concerning the use of blood in transfusion therapy. The Commissioner notes that in 1973 the State of Illinois enacted a law that all blood collected or transported into the state must prominently display whether the blood was collected from paid or volunteer donors. Physicians using blood from paid donors are required to justify in writing, on the patient's chart, their reason for transfusing a product with a documented higher hepatitis risk. As a result, the number of units of purchased blood infused decreased by 35.2 percent despite a 15 percent increase in the number of transfusions between fiscal 1974 and fiscal 1975. Furthermore, the percentage of outdated blood fell from 15.4 percent to 12.9 percent in the same period. In addition, the Commissioner has been advised that the State of California has enacted a law which requires that blood be labeled to identify its source from volunteer or paid donors.

The Commissioner believes that the requirement to label licensed and unlicensed whole blood and red blood cells as proposed (1) is necessary to provide physicians prescribing blood with the important information regarding the source of the blood, (2) is consistent with the National Blood Policy objective to encourage, foster and support efforts to establish an all-voluntary blood donation system, (3) will not interrupt blood services now provided, (4) will increase significantly the demand for blood from volunteer donors or paid donors from blood banks having evidence that their donor population is as safe as a volunteer donor population, and (5) will reduce the risk of transmitting hepatitis in transfusion therapy.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action would not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. The Commissioner has also carefully considered the inflation impact of the proposed regulation and no major inflation impact has been found, as defined in Executive Order 11821, OMB Circular A–107, and interim guidelines issued April 1, 1975 by the Department of Health, Education, and Welfare. Copies of the FDA environmental and inflation impact assessments and other pertinent background data on which the Commissioner relies in proposing this regulation are on file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

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Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 52 Stat. 1040–1042 as amended (21 U.S.C. 321, 352)) and the Public Health Service Act (secs. 351, 361, 58 Stat. 702, 703, as amended (42 U.S.C. 262, 264)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Parts 610 and 640 be amended as follows:

1. In Part 610, by adding a new § 610.42 to read as follow:

§ 610.42 Blood labeling; donor classification.

The label of each container of whole blood and red blood cells shipped in intrastate commerce shall bear the appropriate statement concerning donor classification, "Collected from paid donor" or "Collected from volunteer donor" in no less prominence than the proper name, and the statement "Blood collected from paid donors is associated with a higher risk of transmitting hepatitis than blood from voluntary donors".

2. In Part 640, by revising § 640.2(f) (3) to read as follows:

§ 640.2 General requirements.

* * * * *

(f) * * *

(3) The label of each container of such blood bears the information required by § 640.7(f).

* * * * *

3. In Part 640 by amending § 640.7 by revising the introductory paragraph, adding a new paragraph (a) and redesignating existing paragraphs (a) through (f) as paragraphs (b) through (g), respectively, as follows:

§ 640.7 **Labeling.**

In addition to all other applicable labeling requirements, the following, except as prescribed in paragraphs (f) and (g) of this section, shall appear on the label of each container:

(a) *Donor classification.* The appropriate statement, "Collected From Paid Donor" or "Collected From Volunteer Donor" in no less prominence than the proper name, and the statement "Blood collected from paid donors is associated with a higher risk of transmitting hepatitis than blood from volunteer donors".

* * * * *

4. In Part 640 by revising § 640.18(a) to read as follows:

§ 640.18 **Labeling.**

* * * * *

(a) The information required by § 640.7(a), (b)(2), (c) and (d) for Whole Blood (Human), except the proper name.

* * * * *

Interested persons may, on or before January 13, 1975, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order No. 11821.

Dated: November 10, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-30718 Filed 11-13-75;8:45 am]

HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-777]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determination for the Town of Winthrop, Suffolk County, Mass.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Town of Winthrop, Massachusetts.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Library, Metcalf Square, Winthrop.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Chairman Richard D. Dimes, Town Hall, Metcalf Square, Winthrop, Massachusetts 02152. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or ninety days from publication of this notice in the FEDERAL REGISTER, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of Flooding	Location	Elevation (feet above mean sea level)	Width in feet from shoreline to 100-yr flood boundary
Boston Harbor	Main St	11	130.
	Pleasant St	11	310.
	Pleasant Ct	11	600.
	Girdlestone Rd	11	600.
	Brookfield St	11	1,600.
	Walden St	11	1,270 (along Ingleside Park).
	Ingleside Park	11	All of it.
	Corinna Rd	11	625.
	Pico Ave	11	All of it.
	Plummer Ave	11	40.
	Woodside Ave	11	40.
	Orlando Rd	11	90.
	Cottage Park Rd	11	25.
	Somerset Ave	11	125.
	Sargent St	11	35.
	Bayview Ave	11	520.
	Grand View Ave	11	All of it.
	Pebble Ave	11	Do.
	Otis Ave	11	Do.
	Townsend St	11	Do.
	Maryland St	11	Do.
	Tafts Ave	11	Do.
	Pratt St	11	Do.
	Triton St	11	600 (from Shirley St.).
Short Beach Creek	Morton St	11	All of it.
	Fairview Ave. (extended)	11	950.
	Douglas St. (extended)	11	900.
	Wilshire St. (extended)	11	1,830.
	Winthrop St. (extended)	11	2,070.
	Argyle St. (extended)	11	2,400.
	Golden Dr. (extended)	11	1,920.
Massachusetts Bay	Temple Ave. (extended)	11	60.
	Central St	11	430 (from Payson St.).
	Franklin St	11	All of it.
	Payson St	11	Do.
	Crescent St	11	Do.
	Hawthorn Ave	11	Do.
	Neptune Ave	11	Do.
	Veteran Rd	11	Do.
	Shirley St	11	Do.
	Golf course	11	Do.
	Coral Ave	11	Do.
	Sea Foam Ave	11	Do.
	Pearl Ave	11	Do.
	Forrest St	11	Do.
	Cutler St	11	Do.
	Irwin St	11	Do.
	Underhill St	11	Do.
	Tewksbury St	11	Do.
	Moore St	11	Do.
	Beacon St	11	Do.
	Washington Ave. and Sturgis St	11	850.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: November 3, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-30781 Filed 11-13-75;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-778]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Waynesville, Mo.

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the

Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Waynesville.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, Waynesville, Missouri 65583.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor C. W. Parker, City Hall, Waynesville, Missouri 65583. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or ninety days from the publication of this notice in the FEDERAL REGISTER, whichever is the later.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation (feet above mean sea level)	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Roubidoux Creek	Pine St	775	Not applicable	To 150 ft northwest of intersection with Maple St.
	Benton St	775.5	780 ft north of Intersection with North St.	Not applicable.
	North St	778	To 200 ft southwest of Intersection with Olive St.	Do.
Mitchel Creek	Dwyer Dr	787	500	150.
	Glenda Dr	792	Not applicable	500.
	County Highway H	825	450	200.
	Debra	827	To 175 ft east of Intersection of Debra and Hull Valley.	Not applicable.
Pearson Hollow	Charles	859	Not applicable	To Highway 66.
	U.S. Highway 66	880	125	100.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: November 3, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-30780 Filed 11-13-75;8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 75-CE-27-AD]

CESSNA 300 AND 400 SERIES AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive (AD) applicable to Cessna 300 and 400 Series airplanes.

There have been reports of broken landing gear fork bolts in Cessna 300 and 400 series airplanes. Failure of these fork bolts could result in an unsafe condition in the operation of the landing gear system. The manufacturer has established a maximum service life on the fork bolts installed on these airplanes. Therefore, an AD is being proposed, applicable to Cessna 300 and 400 series airplanes, requiring replacement of ½-inch diameter fork bolts at 2,000 hours' time in service and ⅝-inch diameter fork bolts at 5,000 hours' time in service in accordance with the manufacturer's recommendations.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, 1558 Federal Building, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before January 13, 1975, will be considered before action is taken upon the proposed Rule. The proposals contained in this Notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

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

CESSNA. Applies to Models 310, 320, 340, 401, 402, 411, 414 and 421 Series Airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the main landing gear fork bolts, accomplish the following:

(A) Within 100 hours' time in service on those airplanes having 1900 or more hours' time in service or prior to 2,000 hours' time in service on those airplanes having less than 1900 hours' time in service, and at each subsequent 2,000 hours' time in service thereafter, replace ½-inch diameter P/Ns 0843518-1, 0834518-2, 0843518-35, 0843518-54, 5243518-1 and 5243518-3 fork bolts with new P/N 5243518-3 or FAA-approved superseding part number fork bolts on the airplanes specified below except airplanes on which P/N 5141052-1 fork bolts have been installed as field replacements:

310—35000 thru 310Q0207.
320—All Serials.
401—401-0001 thru 410B0053.
402—402-0001 thru 402B0035.
411—All Serials.
414—414-0001 thru 414-0098.
421—421-0001 thru 421A0158.

(B) Within 100 hours' time in service on those airplanes having 4,900 or more hours' time in service or prior to 5,000 hours' time in service on those airplanes having less than 4,900 hours' time in service, and at each subsequent 5,000 hours' time in service thereafter, replace ⅝-inch diameter P/N 5141052-1 fork bolts with new P/N 5141052-1 or FAA-approved superseding part number fork bolts on the airplanes specified below or any lower airplane serial numbers on which these fork bolts have been installed as field replacements:

310—310Q0208 and on.
340—340-0001 and on.
401—410B0054 and on.
402—402B0036 and on.
414—414-0099 and on.
421—421B0001 and on.

Cessna Service Letter ME75-23 or later approved revision refers to this subject.

Issued in Kansas City, Missouri, on November 6, 1975.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc.75-30692 Filed 11-13-75;8:45 am]

[14 CFR Part 39]

[Docket No. 74-WE-25-AD; P/N 30001]

SARGENT INDUSTRIES, PICO DIVISION REGULATOR

Proposed Airworthiness Directives

Amendment 39-1913 (39 F.R. 28229), AD 74-17-01, requires modification of regular valves incorporated in passenger evacuation slides and slide/rafts to prevent delayed actuation on all airplanes using the affected part. As noted in the proposed rule (39 FR 18663), delayed actuation had not occurred during an actual evacuation, and, therefore, a compliance time of two years was specified in the AD. After issuing amendment 39-1913, the agency has received a report of delayed actuation of two slides on an airplane during an emergency evacuation. Therefore, the agency is considering amending the AD to reduce the compliance time to March 31, 1976.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received on or before December 19, 1975 will be considered by the agency before taking action upon the proposed rule. The proposals contained

in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

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

In consideration of the foregoing, it is proposed to further amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1913 (39 FR 28229), AD 74-17-01, to read in pertinent part, as follows:

Compliance required on or before March 31, 1976, unless already accomplished.

Issued in Los Angeles, California on November 5, 1975.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.75-30693 Filed 11-13-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-EA-68]

FEDERAL AIRWAY SEGMENTS

Proposed Revocation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would: (1) Revoke the west alternate of V-29 between Salisbury, Md., and Kenton, Del.; and (2) Revoke a segment of V-147 from the intersection with V-157 to the Pottstown, Pa., VORTAC.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before December 15, 1975, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would delete V-29W from Salisbury, Md., to Kenton, Del., and delete a segment of V-147 from INT New Castle, Del., 058° and Pottstown, Pa., 143° radials to Pottstown, Pa.

An airspace utilization study indicated insufficient IFR traffic to warrant retention.

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

Issued in Washington, D.C., on November 7, 1975.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-30694 Filed 11-13-75;8:45 am]

[14 CFR Part 73]

[Airspace Docket No. 75-SW-68]

RESTRICTED AREAS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would alter Restricted Area R-3803 Fort Polk, La., by extending its time of designation, increasing its vertical limits to FL 450 and by subdividing it horizontally at FL 180 to form two Restricted Areas, R-3803A and R-3803B. Similar changes would be made to the designated altitudes for R-3804A and R-3804C Fort Polk, La.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before December 15, 1975, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would: a. Alter R-3803 Fort Polk, La., by changing its time of designation, expanding its vertical limits and subdividing it into two restricted areas described as follows:

R-3803A Fort Polk, La.

Boundaries. Beginning at latitude 31°23'-36" N., longitude 93°09'57" W.; to latitude 31°23'12" N., longitude 93°09'48" W.; to latitude 31°22'00" N., longitude 93°10'05" W.; to latitude 31°19'16" N., longitude 93°11'10" W.; to latitude 31°19'16" N., longitude 93°20'15" W.; to latitude 31°24'30" N., longitude 93°20'15" W.; to latitude 31°24'30" N., longitude 93°16'42" W.; to latitude 31°23'35" N., longitude 93°13'24" W.; to point of beginning.

Designated altitude. Surface to FL 180.

Time of designation. Continuous.

Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.

Using agency. Commanding General, Fort Polk, La.

R-3803B Fort Polk, La.

Boundaries. Beginning at latitude 31°23'-36" N., longitude 93°09'57" W.; to latitude 31°23'12" N., longitude 93°09'48" W.; to latitude 31°22'00" N., longitude 93°10'05" W.; to latitude 31°19'16" N.; longitude 93°11'10" W.; to latitude 31°19'16" N., longitude 93°20'15" W.; to latitude 31°24'30" N., longitude 93°20'15" W.; to latitude 31°24'30" N., longitude 93°16'42" W.; to latitude 31°23'35" N., longitude 93°13'24" W.; to point of beginning.

Designated altitude. Fl 180 to FL 450.

Time of designation. As activated by NOTAM issued at least 24 hours in advance.

Controlling agency. Federal Aviation Administration, Houston, Tex., ARTC Center.

Using agency. Commanding General, Fort Polk, La.

b. Change the designated altitude for R-3804A Fort Polk, La., from "Surface to 15,000 feet MSL" to "Surface to FL 180."

c. Change the designated altitude for R-3804C Fort Polk, La., from "15,000 feet MSL to 18,000 feet MSL" to "FL 180 to FL 450."

The proposed alterations are required to accommodate the Department of the Army's assigned mission change at Fort Polk to a combat unit base. If altered, R-3803A and R-3804A will allow the using agency continuous access to the airspace from the surface to FL 180 on a joint use basis throughout the year. Restriction of the airspace in R-3803B and R-3804C will be as announced by NOTAM issued 24 hours in advance. It is anticipated that the airspace above FL180 will be utilized approximately two days per week, 24 hours per day under all weather conditions.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1968 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 7, 1975.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-30695 Filed 11-13-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 68]

[Docket No. 19528; FCC 75-1249]

INTERSTATE AND FOREIGN MESSAGE TOLL TELEPHONE SERVICE AND WIDE AREA TELEPHONE SERVICE

Further Notice of Proposed Rulemaking

In the matter of proposals for new or revised classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS.)

Notice of proposed rulemaking is hereby given. In a companion First Report and Order (FCC 75-1248) adopted this date, the Commission established a registration program designed to allow users of the nationwide telephone network to connect terminal equipment other than PBX's, key telephone systems, main station telephones, and coin telephones to the network without the need for carrier-supplied connecting arrangements, provided they comply with the standards incorporated in the registration program to protect the network from

harm. For the reasons stated in paragraph 18 of that Report and Order, comments are being requested on the planned inclusion of PBX's, key telephone systems, and main station telephones in the registration program.

Accordingly, it is ordered, That interested parties may file comments not later than December 11, 1975, directed to the planned inclusion of PBX's, key telephone systems and main station telephones in our registration program.

Adopted: October 31, 1975.

Released: November 7, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-30628 Filed 11-13-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release No. 34-11748]

BROKER-DEALER REPORTS

Financial and Operational Reporting

Correction

In FR Doc. 29435, appearing at page 51060, in the issue for Monday November 3, 1975, the following corrections should be made:

1. On page 51061, the table appearing in the second column should appear under footnote 8 on the same page.

2. On page 51068, in the first column, the tenth line from the bottom should read "cordance with Section 240.15c3-1;".

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

[Public Notice CM-5/122]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:00 a.m. on Thursday, December 4, 1975, in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Fifteenth Session of the Subcommittee on Ship Design and Equipment of the Intergovernmental Maritime Consultative Organization (IMCO), to be held in London in April 1976. The working group will discuss the following topics:

Definitions for mobile offshore units.

Relevance of SOLAS 74 requirements and other appropriate requirements for mobile offshore units.

Content and scope of regulations for mobile offshore units.

Requests for further information on the meeting should be directed to Captain D.J. Linde, United States Coast Guard. He may be reached by telephone on (area code 202) 426-2167.

The Chairman will entertain comments from the public as time permits.

JOHN P. STEINMETZ,
Acting Director,
Office of Maritime Affairs.

NOVEMBER 5, 1975.

[FR Doc.75-30684 Filed 11-13-75;8:45 am.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

LARGE POWER TRANSFORMERS FROM THE UNITED KINGDOM

Notice of Tentative Determination To Modify or Revoke Dumping Finding

A finding of dumping with respect to large power transformers from the United Kingdom was published as Treasury Decision 72-164 in the FEDERAL REGISTER of June 14, 1972 (37 FR 11773).

After due investigation, it has been determined, tentatively, that large power transformers manufactured and sold for export by Ferranti, Limited, Manchester, England; Hawker Siddeley Electric Export, Limited, London, England; and Parsons Peebles Power Transformers, Limited, Edinburgh, Scotland, are not being, nor are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

Statement of Reasons on Which This Tentative Determination is Based:

The investigation indicated that no sales at less than fair value of large power transformers by Ferranti, Limited, Hawker Siddeley Electric Export, Limited, and Parsons Peebles Power Transformers, Limited, have been made for a period of more than two years from the dumping finding. Written assurances have been given by each of these firms that future sales of large power transformers for export to the United States will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the finding of dumping with respect to large power transformers from the United Kingdom to exclude large power transformers produced and sold for export to the United States by Ferranti, Limited, of Manchester, England; Hawker Siddeley Electric Export, Limited, of London, England; and Parsons Peebles Power Transformers, Limited, of Edinburgh, Scotland, from the finding.

In accordance with § 153.37, Customs Regulations (19 CFR 153.37), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not later than November 24, 1975. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than December 15, 1975.

This notice is published pursuant to § 153.41(c) of the Customs Regulations (19 CFR 153.41(c)).

DAVID R. MACDONALD,
Assistant Secretary
of the Treasury.

NOVEMBER 7, 1975.

[FR Doc.75-30622 Filed 11-13-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DDR&E HIGH ENERGY LASER REVIEW GROUP

Laser Devices Subpanel; Correction

Reference is made to the DDR&E High Energy Laser Review Group Laser Devices Subpanel closed meeting scheduled for 24-26 November 1975 at MIT Lincoln Laboratory, Lexington, Massachusetts and published at 40 FR 51485, November 5, 1975. Notice is hereby given of the change in dates to read: December 8-11, 1975. The location of the meeting remains the same.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

NOVEMBER 11, 1975.

[FR Doc.75-33765 Filed 11-13-75;8:45 am]

DDR&E HIGH ENERGY LASER REVIEW GROUP

Meeting; Correction

Reference is made to the DDR&E High Energy Laser Review Group closed meeting scheduled for December 2, 3, and 4, 1975 in New Orleans, Louisiana, and published at 40 FR 52420, November 10, 1975. Notice is hereby given of the change in dates to read: December 3-4, 1975. The location of the meeting remains the same.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

November 11, 1975.

[FR Doc.75-30764 Filed 11-13-75;8:45 am]

DEPARTMENT OF JUSTICE

Attorney General

UNITED STATES v. THE CLEVELAND TRUST CO.

Written Comments Upon Consent Judgment and Department of Justice Response Thereto

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, the following written comments on the proposed judgment filed with the United States District Court for the Northern District of Ohio, Eastern Division, Civil Action No. C 70-301, United States of

America v. The Cleveland Trust Company, were received by the Department of Justice and are published herewith, together with Justice's response to the comments.

Dated: November 10, 1975.

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

AUGUST 29, 1975.

DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
Washington, D.C.

Re Cleveland Trust Company Consent Decree.

GENTLEMEN: The story in the Wall Street Journal of Friday, August 29, 1975, about your proposed consent decree included a line saying that the Justice Department invited comments from the public within the next sixty days. I feel compelled to comment to you. Unfortunately, I have only had the benefit of news stories but it is my understanding that a number of these holdings were in trust and were not assets of the bank itself.

I have great difficulty with the implications which stem from your proposed consent decree when they pertain to trust assets. The decree itself seems to me does not follow the spirit of the antitrust law unless there is some identifiable wrongdoing which in fact decreases or eliminates competition.

In my own experience it has been perfectly possible to serve on boards of companies in the same business or similar businesses without violating confidences and also without any improper restriction of fair competition.

I believe your decree in limiting the directorships is a case of form and not substance, since nothing is said about the trustees not voting the stock. In addition, it has the effect of limiting individual's right to be represented by a responsible fiduciary of his or her own choice.

Actually, I believe it was a great sin against the traditional fiduciary relationship when someone back in history labeled the legislation antitrust instead of antimonopoly which it really is. Perhaps you might consider changing to the more descriptive terminology in the future.

I really don't see how any of the substantial trust companies and trust departments in the major population centers of our country can go along with this consent decree as any kind of a precedent. Personally, I would feel compelled to resist any similar action on the part of the Justice Department.

Very truly yours,

GILBERT C. HINE,
Senior Vice President and
Executive Trust Officer.

OCTOBER 29, 1975.

MR. GILBERT C. HINE,
Senior Vice President, National Bank of Commerce of San Antonio, 430 Soledad, P.O. Drawer 121, San Antonio, Texas 78291.

Re United States v. The Cleveland Trust Company—(Civil No. C-70-301)

DEAR MR. HINE: Thank you for your comments of August 29, 1975 regarding the proposed Consent Judgment in the referenced case.

The Complaint in this case, in part, alleged that officers of The Cleveland Trust Company served on the Boards of Pneumo-Dynamics Corp., Warner & Swasey Company and White Consolidated Industries, Inc., all manufacturers of automatic machine tools, in violation of Section 8 of the Clayton Act. Section 8 prohibits interlocking directorships in two or more corporations, if such corporations are competitors. No "identifiable wrong doing which, in fact, decreases or eliminates competition" need be present for there to be a violation of Section 8.

The proposed Consent Judgment, which is discussed in detail in the attached Competitive Impact Statement, enjoins Cleveland Trust from employing or hiring any person who is a director of one of a group of companies engaged in the manufacture of automatic machine tools if, at the same time, an officer or employee of Cleveland Trust is a director of another company in the group.

The proposed Consent Judgment does not involve the trust holdings of Cleveland Trust in competing machine tool companies. That part of the civil action alleging that Cleveland Trust's stock holdings in competing machine tool comanies violated Section 7 of the Clayton Act was dismissed by the Court as moot.

In regard to your concern that the provisions of the proposed Consent Judgment may interfere with Cleveland Trust's responsibilities as a fiduciary, we do not believe that such responsibilities excuse the fiduciary from compliance with the antitrust laws of the United States.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

By:

JOHN A. WEBDON,
Chief,
Great Lakes Field Office.

[FR Doc.75-30696 Filed 11-13-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DISTRICT MANAGERS, COLORADO

Redelegation of Authority

NOVEMBER 6, 1975.

1. Pursuant to authority contained in Sec. 1.1(a)(1), 1.2(h)(1), and 1.2(j) of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Colorado District Managers authority to enter into:

a. Cooperative agreements involving the improvement, management, use, and protection of the public lands and their resources under their jurisdiction as provided in the Public Land Administration Act (43 U.S.C. 1363).

b. Cooperative agreements under Sections 2, 9, 12 of the Act of June 28, 1934 (43 U.S.C. 315 et seq.) and under the Act of March 29, 1928 (45 Stat. 380).

c. Contracts and cooperative agreements with Federal, State, county, municipal, and private fire control organizations for the purpose of fire prevention, presuppression and suppression on the public lands under the jurisdiction of the Bureau of Land Management.

2. All the aforementioned cooperative agreements will be submitted to the State Director for review prior to execution.

3. Effective date. This redelegation of authority shall be effective as of November 18, 1975.

DALE R. ANDRUS,
State Director.

[FR Doc.75-30683 Filed 11-13-75;8:45 am]

Geological Survey

DISPOSAL OF OUTER CONTINENTAL SHELF ROYALTY OIL

Allocation Procedures

Notice is hereby given that applications from eligible small refiners for the purchase of the United States' share of oil produced from Outer Continental Shelf (OCS) Lands will be accepted until December 1, 1975, pursuant to regulations set forth in 30 CFR 225a. Current contracts expire February 1, 1976, for such royalty oil produced in the Gulf of Mexico OCS and December 31, 1975, for royalty oil produced in the Pacific OCS (Santa Barbara Channel). The latter contracts are being extended to coincide with the expiration date of contracts in the Gulf of Mexico. Approximately 110,000 barrels of royalty oil will be available daily from leases in the Gulf of Mexico OCS, and 7,000 barrels of royalty oil will be available daily from leases in the Pacific OCS.

A small refiner is defined in 30 CFR 225a.2(a) as:

(a) "Small refiner" means an owner of an existing refinery or refineries (including refineries not in operation) who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of their existing refinery capacities.

The eligibility of small refiners will be determined in accordance with the rules of the Small Business Administration in effect as of February 1, 1976.

It is anticipated that the volume of royalty oil requested will be in excess of that amount available for sale. Therefore, in order to provide an equitable allocation of that royalty oil available, distribution to eligible refiners will be on the basis of the refinery capacity percentage throughput. This will be done by comparing the total amount of available royalty oil with that amount of oil necessary to increase the throughput of all eligible refineries to the same percentage of capacity. Allocation to the individual refiners will then be based on this volume and the amount requested by the refiners provided that the total volume of Government royalty oil purchased by the refiner from both OCS and onshore Federal lands does not exceed sixty percent of the combined refinery capacity of the small refiner.

In accordance with Part 225a.6, the following information should be furnished with each application for royalty oil:

A. 1. Name and address.

2. Location of refinery or refineries.

3. Affiliation or association with any other refiner of oil or diversified company. Specify exact affiliation or association.

4. Total number of employees, including those employed by affiliated or associated companies.

B. 1. Capacity of each refinery.

2. Crude oil currently available from production or by purchase in the open

market, broken down by source, amount, and type or grade into the following categories:

a. From applicant's own and controlled production. Include information on any current sales of owner or controlled production.

b. By purchases under firm contracts running six months or more.

c. From day-to-day spot purchases or other arrangements.

d. From crude oil imported by allocation under the mandatory imports program; include details of current exchange agreements connected with such import allocations and any information concerning the disposition of any unused import allocations.

C. 1. Minimum amount and grade of additional crude oil needed to meet existing refinery commitments or existing refinery capacity. Specify amount and grade.

2. Name of fields which, you believe, offer a potential source of crude oil supply.

D. A tabulation, for the last 12 months of opertaion, of the amount and grade of crude oil refined each month, and kind and amount of the principal finished products.

E. A self-certification that the refinery is a small business concern in accordance with the appropriate guidelines of the Small Business Administration, Title 13 of the Code of Federal Regulations, Part 121.3-9.

F. Copies of certified letters which offer to purchase oil from all major suppliers operating in the vicinity of the refinery and the fields where royalty oil is requested, and attach copies of the replies to these letters. Also, any other evidence that may be availabe of efforts made to purchase needed oil in the open market.

A drawing will be held at a place and date to be established later for the purpose of determining preferential selection of delivery points and leases for royalty oil from the Gulf of Mexico OCS.

Applications for the purchase of royalty oil from leases in the Gulf of Mexico OCS should be submitted to the Oil and Gas Supervisor—Production Control, United States Geological Survey, P.O. Box 7944, Metairie, Louisiana 70011. Applications for the purchase of royalty oil from leases in the Pacific OCS should be submitted to the Oil and Gas Supervisor, United States Geological Survey, 7744 Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012.

JACK W. CARLSON,
Assistant Secretary of the Interior.

NOVEMBER 12, 1975.

[FR Doc.75-30953 Filed 11-13-75;8:45 am]

Office of the Secretary

FEDERAL METAL AND NONMETAL MINE SAFETY ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that the Federal Metal and Nonmetal Mine Safety Advisory Committee, authorized to be established under section 7(a) of the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89-577, as amended by Public Law 94-41 on June 27, 1975), will meet on Thursday, December 4, 1975, at 8:30 a.m. in Room 5160 Department of the Interior, Washington, D.C. 20240.

The purpose and agenda of the meeting is the organization of the Committee, orientation of Committee members, explanation of the purposes of the Committee and the duties of the Committee members, taking of the oath of office of the Committee members, and ratification of the report of actions for the Committee meetings held on October 30 and 31, 1974; January 29, 30, and 31, 1975; May 7, 8, and 9, 1975; and, June 24, 25, 26, and 27, 1975. Copies of the agenda and report of actions are available to the public and may be obtained from or may be examined in the office of the Executive Secretary.

The Honorable Thomas S. Kleppe, Secretary of the Interior will administer the oath of office to the Committee members at 10:00 a.m.

The meeting of the Advisory Committee is open to the public, but attendance is limited to the space available in the meeting room. Persons desiring to attend this meeting are requested to notify the Executive Secretary in writing of their intention to attend the meeting by Wednesday, December 3, 1975.

The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting and any member of the public may file a written statement with the Committee before, during, or within 30 days after the meeting.

All written statements, notices, and requests should be addressed to the Executive Secretary as follows:

Executive Secretary, % Mr. Herbert P. LeVan, Federal Metal and Nonmetal Mine Safety Advisory Committee, Room 702, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA 22203, Telephone Number: Area Code 703-235-8685.

November 11, 1975.

JACK W. CARLSON,
Assistant Secretary of the Interior.

[FR Doc.75-30817 Filed 11-13-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A267]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations in Divide County, North Dakota, have been substanially affected as a result of a natural disaster consisting of a hailstorm, windstorm, and excessive rainfall occurring on July 17, 1975. 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 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arthur A Link that such designation be made.

Applications for Emergency loans must be received by this Department no later than December 22, 1975, for physical losses and July 26, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 7th day of November, 1975.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.75-30728 Filed 11-13-75;8:45 am]

[Notice of Designation Number A265]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Texas:

Armstrong
Gray

The Secretary has found that this need exists as a result of a natural disaster consisting of hailstorms on May 22 and 28 and June 16 and 23, 1975; excessive rainfall with flooding May 28, 1975; excessive rainfall July 7 and 9, 1975; and a windstorm and sandstorm June 18, 1975, in Armstrong County and hailstorms March 27, May 12 and 28, June 19, and July 13, 1975; excessive rainfall May 28 to June 23, 1975; flooding May 28, 1975; tornadoes May 28, 1975; and windstorms June 16, 18, and 19, 1975, in Gray County.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for Emergency loans must be received by this Department no later than December 22, 1975, for physical losses and July 23, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 7th day of November, 1975.

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

[FR Doc.75-30729 Filed 11-13-75;8:45 am]

Forest Service

SQUAW CREEK PLANNING UNIT

Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Squaw Creek Planning Unit, Boise National Forest, Idaho. The Forest Service report number is USDA–FS–FES (Adm) R4–75–24.

The environmental statement identifies and evaluates the probable effects of the land use plan for the Squaw Creek Planning Unit on the Boise National Forest, Idaho. The purpose of the plan is to allocate 106,424 acres of National Forest lands within the unit to specific resource uses and activities; establish management objectives; document management direction, management decisions, and necessary coordination between resources uses and activities; and provide for the protection, use, and development of the various resources within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects.

This final environmental statement was transmitted to CEQ on November 7, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

Regional Planning Office, USDA, Forest Service, Federal Building, Room 4403, 324–25th Street, Ogden, Utah 84401.

Forest Supervisor, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

District Forest Ranger, Emmett Ranger District, Route 3, Box 198, Emmett, Idaho 83617.

A limited number of single copies are available upon request from Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: November 7, 1975.

P. M. Rees,
Director, Regional Planning and Budget.

[FR Doc.75–30681 Filed 11–13–75;8:45 am]

Packers and Stockyards Administration

MAYSVILLE STOCK YARDS ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, location of stockyard, and date of posting:

KY—134 Maysville Stock Yards, Maysville, Ky., September 9, 1931.
ME—102 Raynor I. Crosman, Corinna, Maine, May 23, 1967.
MO—175 Olean Livestock Market, Inc., Olean, Mo., May 22, 1959.
NY—122 Maplehurst Livestock Market, Hinsdale, N.Y., August 6, 1960.
OK—116 Grady County Livestock, Chickasha, Okla., April 8, 1959.
TN—130 Kingsport Live Stock Auction Corp., Kingsport, Tenn., February 22, 1964.
TX—262 Hopkins County Livestock Commission, Sulphur Springs, Tex., September 26, 1962.
UT—106 Richfield Auction Co., Richfield, Utah, January 27, 1955.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the Federal Register. This notice shall become effective upon publication in the Federal Register.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.).

Done at Washington, D.C. this 10th day of November, 1975.

Edward L. Thompson,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.75–30730 Filed 11–13–75;8:45 am]

Soil Conservation Service

ELM CREEK (CEN–TEX) WATERSHED PROJECT, TEX.

Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Elm Creek (Cen-Tex) Watershed Project, Bell, Falls, McLennan, and Milam Counties, Texas, USDA–SCS–EIS–WS–(ADM)–75–1–(F) TX.

The EIS concerns a plan for watershed protection and flood prevention. The planned works of improvement provide for conservation land treatment and 45 floodwater retarding structures.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: November 7, 1975.

Joseph W. Haas,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75–30715 Filed 11–13–75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

VERMONT MARBLE CO.

Petition for Determination

A petition by Vermont Marble Company, Proctor, Vermont, was accepted for filing on November 10, 1975, under Section 251 of the Trade Act of 1974 and in conformity with *Adjustment Assistance Certification Regulations for Firms*, 15 CFR, Part 350, 40 FR 14291 (April 3, 1975) (the "Regulations"). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm. The petitioner asserts that imported articles classified in items 514.65, 514.81 and 515.24 of the Tariff Schedules of the United States ("TSUS") are like or directly competitive with marble produced by the firm.

Any party having a substantial interest in the subject matter of the proceedings (as described in § 350.40(b) of the Regulations) may request a public hearing on the matter. A request for a hearing conforming to § 350.40 of the Regulations must be received by the Director, Office of Trade Adjustment Assistance, Room 3011, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 24, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.106, Trade Adjustment Assistance.)

Jack W. Osburn, Jr.,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75–30774 Filed 11–13–75;8:45 am]

Maritime Administration

[Docket No. S–474]

PRUDENTIAL LINES, INC.

Notice of Application

Notice is hereby given that Prudential Lines, Inc., in its application dated July 8, 1975, for a new long-term operating-differential subsidy agreement has requested permission to continue its present domestic privileges without change. Prudential Lines, Inc., has written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, with respect to its passenger-cargo service on

Trade Routes Nos. 23, 24, and 25 for the privilege of carrying passengers, their baggage, and automobiles between U.S. Pacific ports (Washington-California, inclusive) on regularly scheduled voyages of the C4–S1–49a (MAGDALENA-class) vessels assigned to this service. The company also has been granted written permission under section 805(a) for the operation of the tanker EXXON SEATTLE (ex SAROULA) in coastwise service by the Exxon Corporation, which has bareboat chartered the vessel from The Skouras Lines, Inc., an affiliate of Prudential Lines, Inc.

New written permissions will be required under section 805(a) of the Merchant Marine Act, 1936, as amended, to continue these authorizations if the application of Prudential Lines, Inc., for a new subsidy agreement is approved.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in such applications and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must by close of business on November 28, 1975, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: November 11, 1975.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-30797 Filed 11-13-75;8:45 am]

National Oceanic and Atmospheric Administration

THE GREEN SEA TURTLE, THE LOGGERHEAD SEA TURTLE, AND THE PACIFIC RIDLEY SEA TURTLE

Listing as Threatened Species; Public Hearing

This notice reschedules an informal public hearing (announced August 20, 1975, at 40 FR 36401) from December 3, 1975 to February 25, 1976. This hearing will be held in the Penthouse Conference Room, Page Bldg. 1, 2001 Wisconsin Avenue, NW., Washington, D.C., for the purpose of obtaining comments and views from interested persons with respect to: (1) the proposed listing of the green sea turtle (*Chelonia mydas*), the loggerhead sea turtle (*Caretta caretta*), and the Pacific ridley sea turtle (*Lepidochelys olivacea*), as "threatened" species under the authority of the Endangered Species Act of 1973 (the Act), 16 U.S.C. 1531, et seq.; (2) the proposed protective regulations relating to these species; and (3) the draft environmental impact statement on this proposed action.

Problems encountered in preparing the draft environmental impact statement have necessitated this change of the hearing date. We now anticipate completion of the draft environmental impact statement by mid-January and publication of availability by the Council on Environmental Quality (CEQ) in late January.

As indicated in the August 20, 1975 notice, the proposed determination to list these species as "threatened" species and the proposed protective regulations, prepared pursuant to section 4(d) of the Act (16 U.S.C. 1533(d)), were published on May 20, 1975, at 40 FR 21974–21977 (corrected June 13, 1975, at 40 FR 25217) and at 40 FR 21982–21986 (corrected June 20, 1975, at 40 FR 26043).

The hearing will be informal. At the commencement of the hearing the presiding officer will announce the procedures to be followed at the hearing. All interested persons will be afforded the opportunity to present their comments and views at the hearing. The record will remain open until March 8, 1976 (twelve (12) days after the public hearing), for the submission of written comments or views. Written comments or views may be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235.

In the event interested individuals wish to examine the public record, they may do so between the hours of 8:30 a.m. to 4:30 p.m. at the Division of Marine Mammals and Endangered Species, National Marine Fisheries Service, Room 430B, Page Bldg. No. 2, 3300 Whitehaven Street, NW., Washington, D.C., or during normal business hours at the Fish and Wildlife Service, Suite 600, 1612 K Street, NW., Washington, D.C. In accordance with guidelines isued by the CEQ, the CEQ will publish notice of availability of the draft environmental impact statement.

Dated: November 12, 1975.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.75-31005 Filed 11-13-75;9:00 am]

NEW YORK BIGHT MESA ADVISORY COMMITTEE AND PANELS

Notice of Open Meeting

Pursuant to Section 10(a)(2) of 5 U.S.C. App. I and Section 8b of Office of Management and Budget Circular No. A-63 (March 27, 1974) the National Oceanic and Atmospheric Administration announces a meeting of the New York Bight MESA Advisory Committee and Panels scheduled for December 16, 1975 in Stony Brook, New York. The Advisory Committee, and Panels will meet in a plenary session[1] from 9:00 a.m. until approximately 5:00 p.m. in Room 231 of the Stony Brook Union on the Main Campus of the State University of New York at Stony Brook, New York. The meeting will be open to the public.

The Agenda for the Meeting includes:

(1) A presentation on the Role of the National Oceanographic Data Center;

(2) MESA New York Bight Data and Information Exchange;

(3) General Interagency Coordination and Communication;

(4) Advisory Panel Reviews of MESA New York Bight Annual Report;

(5) Advisory Committee Reviews of MESA New York Bight Annual Report;

(6) An Overview of MESA FY '76 Research; and

(7) A Critique by the Advisory Committee.

Approximately 20 seats will be available for the public on a first-come, first-serve basis. Written statements by interested persons will be accepted before or after the meeting or by mail. Statements received in typewritten form will be forwarded with the minutes of the meeting to Committee and Panel members. Inquiries or statements should be addressed to:

Stanley Chanesman, Executive Secretary, New York Bight MESA Advisory Committee, Old Biology Building, S.U.N.Y., Stony Brook, New York 11794. Phone: (516) 751-7002.

Dated November 11, 1975.

R. R. CARNAHAN,
Acting Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc.75-30985 Filed 11-13-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Notice of Meeting Schedule

NOVEMBER 11, 1975.

At its meeting on September 18, 1975, in San Francisco, California, the National Council on Educational Research approved the following schedule for general meetings to be held in Washington, D.C., at the offices of the National Institute of Education for the period January-July 1976:

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[1] After lunch, each Advisory Panel will meet for 2 hours to discuss the Annual Report of the MESA New York Bight Project. During this period: The Scientific and Technical Panel will convene in Room 213. The Citizen and Industrial Panel will convene in Room 214. The Information User Panel will convene in Room 231.

January 15 (Thursday).
January 16 (Friday).
(A two-day meeting will be held in January.)
March 26 (Friday).
May 28 (Friday).
July 23 (Friday).

Agendas for these meetings and any changes in meeting dates or locations will be published in the FEDERAL REGISTER as promptly as possible.

The Council was established under Section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

It is the Council policy that all sessions are open unless they concern confidential budgetary or personnel information or concern other matters requiring confidentiality. Members of the public are invited to attend the open sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted to the Council at any time and should be sent to the Chairman and the Executive Secretary of the Council at the address shown below. Requests to make a presentation at a Council meeting should be submitted in writing to the Chairman and the Executive Secretary at least 10 days in advance of the meeting. The Chairman will determine whether a presentation should be scheduled.

In accordance with Council policy (NCER Resolution No. 013074-8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Executive Secretary. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to assure adequate seating arrangements, persons interested in attending Council meetings are requested to contact in advance: Mrs. Caroline Phillips, Executive Secretary, National Council on Educational Research, National Institute of Education, Washington, D.C. 20208, Telephone: 202/254-7900.

HAROLD L. HODGKINSON,
Director, National Institute of Education.

[FR Doc. 75-30732. Filed 11-13-75; 8:45 a.m.]

Public Health Service

HEALTH SERVICES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3, Health Services Administration, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (39 FR 10463, March 20, 1974, as amended) is amended to reflect the establishment of the Division of Health Maintenance Organizations within the Bureau of Medical Services, and the transfer to that division of all Health Maintenance Organization functions from the Bureau of Community Health Services. In addition, the Order of Succession is amended to make several minor corrections.

Section 3-B Organization and Functions is amended as follows:

Delete the statement for the *Bureau of Community Health Services (3B00)* and substitute the following:

Bureau of Community Health Services (3B00). The Bureau of Community Health Services serves as a national focus for efforts to improve the organization and assure delivery of health services to specified medically underserved groups or in medically underserved areas. To the maximum extent possible this is done in conjunction with the major health care financing programs. To this end, the Bureau: (1) facilitates the development of locally-based programs of health services delivery; (2) enhances the capacity of bureau supported health service programs for full participation in the major public health financing systems—Medicare and Medicaid; (3) administers programs providing specific services to specific populations including family planning, maternal and child health care, and migrant care; (4) directs programs, including the National Health Service Corps, which assures accessibility to health care in underserved areas; and (5) improves quality and contains costs of services provided in bureau supported health service delivery programs.

Under the *Bureau of Community Health Services (3B00)*, delete all references to the *Program Office for Health Maintenance Organizations (3B09)*.

Delete the statement for the *Bureau of Medical Services (3U00)* and substitute the following:

Bureau of Medical Services (3U00). The Bureau of Medical Services: (1) provides direct health care services and support for such services to certain legal beneficiaries of the Public Health Service, including meeting the occupational health needs of Federal employees, by providing: (a) comprehensive direct health care for designated Federal beneficiaries and selected community groups; (b) occupational health care and safety services for Federal employees; (c) training for health services personnel; (d) intramural clinical and health services research; and (2) administers programs that are concerned with the capacity and organization of the providers of specified elements of the overall health service system by: (a) fostering the development of non-Federal public and private provider capacity to provide high quality health care services; (b) being the focus for efforts aimed at improving the organization and expanding the development of alternate methods of health service delivery and health maintenance; (c) encouraging the expansion of the capacity of existing health service delivery programs to permit increased participation in the major public health financing systems—Medicare and Medicaid; (d) administerng selected health service programs which are aimed at encouraging their wider adoption throughout the health care system; (e) providing national leadership to assist and encourage the development, improvement, expansion, and integration of comprehensive area emergency medical services systems.

Under the *Bureau of Medical Services (3U00)*, immediately after the *Division of Coast Guard Medical Services (3U71)*, insert the following statement:

Division of Health Maintenance Organizations (3U77). The Division is responsible for implementing and administering the grant, contract, and loan aspects of Title XIII, Health Maintenance Organizations (HMO), of the Public Health Service Act and for being the Department's advocate in efforts to improve the organization and delivery of health services by use of the health maintenance organization approach. In furtherance of these responsibilities, the Division: (1) through grants and contracts, provides resources to public or nonprofit private entities for the planning and initial development of HMOs; (2) makes or guarantees loans to HMOs to cover certain operating expenses; (3) develops national policies and objectives; (4) provides technical assistance to HMOs, entities seeking HMO status and others concerned with HMO aspects of the health care system; (5) interprets program policies, regulations, guidelines, standards and priorities; (6) develops long and short-range program goals and objectives; (7) provides leadership and direction for related legislative activities.

Under *Section 3-C Order of Succession* delete the current statement and substitute the following:

Section 3-C Order of Succession. During the absence or disability of the Administrator or in the event of a vacancy in that office, the first official listed below who is available shall act as Administrator, except that during a planned period of absence the Administrator may specify a different order of succession:

(1) Deputy Administrator; (2) Associate Administrator for Management; (3) Director, Indian Health Service; (4) Director, Bureau of Medical Services; (5) Director, Bureau of Community Health

Services; and (6) Director, Bureau of Quality Assurance.

Dated: November 7, 1975.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.75-30723 Filed 11-13-75;8:45 am]

Social and Rehabilitation Service

WORK INCENTIVE PROGRAM

Social and Supportive Services

Notice is hereby given of revised limits of entitlement for the period July 1, 1974 to June 30, 1975 for child care and supportive services under the Work Incentive (WIN) Program.

Public Law 94-41, the joint resolution making continuing appropriations for the Fiscal Year 1976, and for other purposes, appropriated an additional amount of $70,000,000 for activities under Title IV part C, of the Social Security Act. Of this amount $35,000,000 is available for child care and supportive services, as authorized under section 402(a)(19)(G) of the Social Security Act, for Fiscal Years 1974 and 1975, $5,462,176 for Fiscal Year 1974 expenditures and the remaining $29,537,824 for Fiscal Year 1975 expenditures. The total amount now available for FY 1975 expenditures is $123,886,824 which consists of this $29,537,824 and the $94,349,000 made available in the Fiscal Year 1975 annual appropriation. Original limits of entitlement were published for the $94,349,000 in the FEDERAL REGISTER on December 31, 1974 (39 CFR 45308).

Accordingly, additional Federal financial participation is available under the revised limits of entitlement published herein for Fiscal Year 1975 expenditures under the Work Incentive Program in excess of the original limits of entitlement, provided that claims for Federal financial participation in all Fiscal Year 1975 expenditures are received by the Secretary with postmark dated prior to February 1, 1976. The revised limits of entitlement for FY 1975 are calculated using the same formula and data used by this department to calculate the original Fiscal Year limits of entitlement.

If the total of the claims made by February 1, 1976, is less than $123,886,824 all claims will be paid without regard to the revised limits of entitlement published herein. However, if the total of the claims exceeds $123,886,824 and there are one or more States which do not claim the entire amount of the revised entitlement by February 1, 1976, the total of the unclaimed additional amounts provided in these revised limits will be redistributed among States having Fiscal Year 1975 expenditures in excess of the revised limits of entitlement published herein. Such redistribution will be made on the basis of the ratios each such State's revised limit of entitlement bears to the total of the revised limits of entitlement of all the States having Fiscal Year 1975 expenditures in excess of the revised limits of entitlements. Such distribution involves a number of steps.

First, the amount available for distribution is determined. For example, if 51 States failed to claim the entire additional amount made available under these revised limits, then the unclaimed amounts would be available for redistribution to the 3 other States with Fiscal Year 1975 expenditures in excess of their revised limits. For example purposes assume the amount of Federal funds available for redistribution is $5,000,000.

Second, in each of the three States the amount of the expenditures in excess of the revised limits is determined. For example purposes assume the excess is, State A—$6,000,000, State B—$4,000,000 and State C—$2,000,000.

Third, the ratio of the revised limit of each of these three States to the total of the revised limits of all three States is calculated in order to determine each State's share of the $5,000,000 available. If the revised limits were, State A—$100,000, State B—$300,000 and State C—$600,000, then the share of the $5,000,000 available to State A would be $500,000 or 10 percent of $5,000,000, State B's share would be $1,500,000 and State C's share would be $3,000,000.

Fourth, if any State's share of the Federal funds available for redistribution exceeds expenditures, then the excess Federal funds are available for further redistribution and steps one through four are repeated. In this example State C's share of the $5,000,000 available for redistribution is $3,000,000. However, the Fiscal Year 1975 expenditures of State C only exceeded the revised limit of entitlement of State C by $2,000,000. Therefore State C receives $2,000,000 from the $5,000,000 available for redistribution and steps one through four are repeated for States A and B.

In this second redistribution, $1,000,000 is available, the share of State A is $250,000 and the share of State B is $750,000. Since the amount of the expenditures in excess of the revised limits in both States exceeds the share of the Federal funds available for redistribution, both States will receive their share of the remaining $1,000,000 available and be left with Fiscal Year 1975 expenditures for which there are no Federal matching funds available under the WIN appropriations.

The revised limits of entitlement for each State for Fiscal Year 1975 expenditures for child care and supportive services, as authorized under section 402(a)(19)(G) and 403(d) of the Social Security Act, 42 U.S.C. § 602(a)(19)(G) and 603(d), are as follows:

State:	*Revised fiscal year 1975 limits of entitlement*
Alabama	1,601,106
Alaska	567,936
Arizona	1,369,028
Arkansas	890,777
California	8,535,642
Colorado	1,584,853
Connecticut	1,631,055
Delaware	480,815
District of Columbia	2,131,179
Florida	3,040,039
Georgia	3,680,657
Hawaii	444,099
Idaho	792,166
Illinois	3,330,992
Indiana	1,032,803
Iowa	1,245,513
Kansas	1,007,993
Kentucky	1,560,680
Louisiana	1,285,064
Maine	833,420
Maryland	2,947,827
Massachusetts	2,265,218
Michigan	13,861,803
Minnesota	2,094,660
Mississippi	776,364
Missouri	2,360,748
Montana	625,638
Nebraska	601,006
Nevada	135,633
New Hampshire	205,042
New Jersey	8,279,595
New Mexico	496,618
New York	17,196,986
North Carolina	1,784,456
North Dakota	294,514
Ohio	2,984,479
Oklahoma	1,060,307
Oregon	3,374,352
Pennsylvania	3,440,893
Rhode Island	908,441
South Carolina	1,265,846
South Dakota	385,329
Tennessee	1,619,946
Texas	3,847,588
Utah	1,559,611
Vermont	735,001
Virginia	1,752,447
Washington	2,323,323
West Virginia	1,936,621
Wisconsin	4,181,611
Wyoming	175,784
Guam	69,424
Puerto Rico	1,250,230
Virgin Islands	43,666
Total	123,886,824

Dated: October 3, 1975.

JOHN A. SVAHN,
Acting Administrator, Social and Rehabilitation Service.

[FR Doc.75-30719 Filed 11-13-75;8:45 am]

Office of the Secretary

OFFICE OF HUMAN DEVELOPMENT

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is hereby amended by revising Subchapter 1R90, Office of Administration and Management, Office of Human Development. The revision is occasioned by the reorganization of activities in the Office of Administration and Management to attain the purposes of the Rehabilitation Act Amendments of 1974. The statement published in the FEDERAL REGISTER on August 30, 1973 at 38 FR 23430 is amended to read as follows:

1R90.00 *Mission.* The Office of Administration and Management acts for the Assistant Secretary for Human Development on matters of administration

and management inherent in the operations of OHD; effects the utilization of administrative and financial management resources of operating programs by coordinating the funding, manpower, facilities, and equipment resources of the Office of Human Development; under the guidance and with the approval of the ASHD and in consultation with Program Directors and office heads; provides leadership and direction to administrative and financial management activities, including budget, finance, personnel, grants and contracts, organization management analysis and problem solving, data management information systems, procurement, materiel management, directives management, and similar supporting administrative services; provides the ASHD with a quick response capability for issues regarding management problems arising in these areas; analyzes for the ASHD the management and organizational consequences of new legislation to identify management implications and to ensure responsible administrative management planning; reviews administrative and financial management activities for the purpose of assuring compliance with laws, regulations, Departmental and OMB management policies, procedures, goals, and plans; provides leadership in the development of a unified data management system for HD operating components. Administers the Equal Employment Opportunity Program by carrying out programs as mandated by the President and ensuring policy and program direction to equal employment of minorities throughout OHD; plans and develops programs and procedures designed to eliminate discriminatory employment practices.

1R90.10 *Organization.* The Office of Administration and Management is headed by a Director who reports directly to the Assistant Secretary for Human Development and consists of the following organizational components which report to the Director:

A. Office of the Director.

B. Director of Equal Opportunity Programs.

C. Management Information Staff.

D. Management Analysis Staff.

E. Budget and Financial Management Division.

F. Grants and Contracts Management Division.

G. Administrative Services Division.

H. Personnel Division.

1R90.20 *Functions.* A. Office of the Director. Directs and coordinates all elements of the Office of Administration and Management; provides leadership and services to all programs and components of the Office of Human Development, including coordination and implementation activities for grants and contracts, budget, finance, personnel, data management information systems, management methods and systems, and administrative services; and administers the Equal Employment Opportunity Program; initiates new and revised plans of OAM activities and ensures that programs are coordinated to maximize the use of OHD resources, including accomplishment to EEO goals as mandated by Executive Orders and the Department.

B. Director of Equal Opportunity Programs. Provides leadership and policy direction in the development and implementation of exemplary Equal Employment Opportunity Programs for OHD; provides staff advice and support to the ASHD through the Director, OAM, in executing Federal Government and the Department's programs established by Executive Order; plans and develops programs and procedures designed to eliminate discriminatory employment practices; receives and provides for the investigation of complaints of alleged discrimination; and maintains liaison with the Department's EEO staff.

C. Management Information Staff. Directs the development and implementation of OHD's ADP plans and requirements, including management information systems after approval of Program Directors; provides technical leadership to improve management evaluation and methodology by use of technological improvements; coordinates the integration of program and management data needs across functional and organizational lines; establishes specifications for equipment and resources against required performance standards; develops and implements policies, procedures, and guidelines on information standardization in OHD; provides technical assistance to programs in information systems areas.

D. Management Analysis Staff. Conducts studies to evaluate the effectiveness of OHD organization and management and implements resultant systems and procedures; assists and supports component programs of OHD by effective management of OHD manpower resources; plans, directs, and coordinates OHD's manpower management program, including manpower deployment and utilization system, the work measurement and productivity tracking system, and the future manning needs forecasting system; conducts special management improvement studies and analyzes existing or designs new methods to improve management services and appraisal; develops and interprets OHD policies, procedures, and standards in administrative organizational and manpower areas and oversees their implementation; conducts cost and efficiency studies and recommends improvements; and coordinates the preparation and approval of functional statements and delegations of authority, both program and administrative, and maintains the official compilation of OHD authorities.

E. Budget and Financial Management Division. Consolidates, formulates, presents, and executes budget estimates, apportionments, and forecasts of resources and other mechanisms relating to the optimum direction and coordination of the financial resources of OHD, including:

1. Participation in planning, directing and coordinating financial and budgetary programs of the OHD;

2. Provision of technical guidance to OHD programs in preparing budgets. Coordination with OHD P&E and affected program individual budgets for preparation of a single budget document for presentation to ASHD, Departmental management, the Office of Management and Budget, and the Congress;

3. Assistance in planning and presentation of the budget before the Office of Management and Budget and the Congress; development of materials for OHD programs in testimony at hearings before these bodies;

4. Review of the budget as approved by Congress and recommendation to ASHD for approval of a financial plan for its execution. Making of allocations to constituent offices offices within the guidelines of the approved financial plan;

5. Development and maintenance of budgetary controls to ensure observance of established ceilings on both funds and personnel;

6. Preparation of requests for apportionment of appropriated funds; maintenance of controls of allotted funds against current obligations, including separate plans for each of the Regional Offices;

7. Provision of analysis and coordination of accounting reports for OHD;

8. Development of financial operating procedures and manuals, including assuring implementation within the Office of the Secretary of Departmental and Federal fiscal policies and procedures; and

9. Participation of program development and implementation plans where there are budgetary implications.

F. Grants and Contracts Management Division. Provides centralized services governing the management and administration of grants and contracts for OHD headquarters awards, with the exception of grants policy and technical assistance for RSA which has its own staff for these purposes; develops and issues, after consultation with Program Directors and approval of ASHD, OHD policies, instructions, and procedures for the administration of grants, contracts, and procurement management; ensures consistency in policy interpretations and implementation of DHEW, OMB, and GSA issued regulations, policies, and procedures for grants and contracts; compiles, analyzes, and publishes data essential to the administration of contracting and grants activities; at the request of Program Directors, executes, administers, and terminates contracts and grants; reviews grants and contracts and recommends action concerning requests for waivers, appeals, deviations, determinations, and findings; provides staff support and assistance to HD program offices in grant and contract review activities; establishes procedures for the central processing of grant applications and review of contracts against established

criteria; and coordinates OHD actions with respect to grant and contract audit requirements and results.

G. Administrative Service Division. Provides general services and technical staff support to meet the operational needs of constituent offices that comprise the Office of Human Development, including policy and procedures issuance management, reports management, forms management, records maintenance and disposition, and other aspects of paperwork management, publication distribution and storage management; space management and planning, travel services, mail and messenger services, parking, reproduction services, telephone services, building security, and safety; provides OHD coordination and liaison in carrying out provisions of the Privacy Act; maintains supply, equipment, and materiel inventories; controls and reviews all purchase requests against Department and Federal requirements; acts as liaison with OS procurement office on small purchases; provides technical assistance in the preparation of policy issuances, program regulations, and guidelines; ensures timeliness, coordination, routing, and clearance of OHD program policy and directive materials; provides technical and staff assistance on internal administrative services for OAM, including internal manuals and directives, and serves as the focal point for DHEW and OMB initiated studies.

H. *Personnel Division.* The Personnel Division provides leadership, direction, and control in developing and administering the centralized personnel management and administration program for OHD; provides advice to the Director, OAM, and through that Office to the ASHD and other key officials throughout OHD on matters relating to the development and execution of personnel policies and programs; subject to the approval of the ASHD, develops personnel management objectives; conducts OHD-wide personnel programs and provides staff support in such areas as employee development, employee-management cooperation, position and pay management, and coordinates and provides advice and assistance to OHD component programs on position classification, recruitment, and placement; develops plans for ensuring current and future staffing requirements; participates in personnel matters relating to union negotiations and coordinates activities with the Upward Mobility Program; serves as the focal point in OHD on personnel matters with the Civil Service Commission and Office of Management and Budget; provides special studies on personnel matters upon requests of the Director, OAM.

Dated: November 7, 1975.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.75-30724 Filed 11-13-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-75-454]

HIDDEN VALLEY LAKE SUBDIVISION

Notice of Hearing

In the matter of Hidden Valley Lake Subdivision, OILSR Nos. 0-1172-15-6, 0-1172-15-6(A-E), Doc. No. 75-200-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Hidden Valley Lake, Inc., James J. Rupel, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued September 26, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Hidden Valley Lake Subdivision, located in Dearborn County, Indiana, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received October 14, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on January 14, 1976, at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before December 31, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: November 7, 1975.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc. 75-30736 Filed 11-13-75; 8:45 am]

[Docket No. N-75-456]

LAKE OF THE NORTH

Notice of Hearing

In the matter of Lake of the North, OILSR Nos. 0-2167-26-25, 0-2167-26-25(A), Doc. No. 217-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. American Central Corporation, John J. Dillon, Vice President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued September 26, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property for Lake of the North, located in Antrim and Otsego Counties, Michigan, contain untrue statements of material fact or omit to state material facts required tot be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received October 16, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on January 8, 1976, at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before December 25, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a de-

fault and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: November 7, 1975.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-30737 Filed 11-13-75;8:45 am]

[Docket No. 75-455]

PINERY SUBDIVISION

Notice of Hearing

In the matter of The Pinery Subdivision, OILSR No. 0-1530-05-105 (A-H), Doc. No. 75-221-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Terracor, Ian M. Cumming, President and Director, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued September 26, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125, informing the developer of information obtained by the Officer of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for The Pinery Subdivision, located in Douglas County, Utah, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received October 15, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on January 6, 1976, at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before December 23, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: November 7, 1975.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-30738 Filed 11-13-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Public Meeting

On December 2, 3 and 4, 1975 the National Motor Vehicle Safety Advisory Council will hold open meetings in the DOT Headquarters Building, 400 Seventh Street SW., Washington, D.C. The Advisory Council is composed of 25 members, a majority of whom are representatives of the general public, including representatives of State and local governments, with the remainder including representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. The Advisory Council makes recommendations to the Secretary of Transportation on motor vehicle safety and property loss reduction programs carried out by the National Highway Traffic Safety Administration.

The following meetings are subject to the approval of the National Highway Traffic Safety Administrator.

On December 2 at 9:30 a.m. in room 2232 the Crashworthiness Committee will meet with the following agenda:

School Bus Seat Belt Anchorage Requirements.
Dynamic Testing of Seat Belts.
Issues Arising from the Fourth International Congress on Automotive Safety.
New Business/Old Business.

At 1:30 p.m. on December 2 in room 3442 the Accident Avoidance and Operating Systems Committee will meet with the following agenda:

Review of 100 Series Motor Vehicle Safety Standards.
New Business/Old Business.

Also on December 2 at 3:00 p.m. in room 2232 there will be a joint meeting of the Crashworthiness and Motorcycle Committees with the following agenda:

Discussion of Motorcycle Helmet Standard 218—Surrogate vs. Human Response.
New Business/Old Business.
Future Meetings.

On December 3 starting at 10:30 a.m. in room 2232 the Advisory Council will review the Motor Vehicle Safety Defects Program. Briefings will be made by NHTSA staff.

On December 4 at 9:00 a.m. in room 2232 the full Council will meet with the following agenda:

Approval of October Minutes.
National Accident Sampling System.
Report of Crashworthiness Committee.
Report of Accident Avoidance and Operating Systems Committee.
Report of Motorcycle Committee.
New Business/Old Business.

On December 4 following the full Council meeting the Executive Committee will meet in room 2232 with the following agenda:
Future Plans.

For further information contact the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W., Washington, D.C., telephone 202-426-2872.

This notice is given pursuant to section 10(a)(2) of Public Law 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Issued: November 10, 1975.

WM. H. MARSH,
Executive Secretary.

[FR Doc.75-30685 Filed 11-13-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

MIXED OXIDE FUEL

Scope, Procedures and Schedule for Generic Environmental Impact Statement and Criteria for Interim Licensing Actions

In the May 8, 1975 FEDERAL REGISTER (40 FR 20142), the Nuclear Regulatory Commission requested public comment on the subject of procedures for decisions relating to wide-scale use of mixed oxide fuel[1] in light water nuclear power reactors. In order to focus attention on the major elements of the decisions it would have to make, the Commission stated its provisional views in that notice. The present notice states the Commission's conclusions, reached in light of the extensive public comments received by the Commission and the Commission's further deliberations. In particular, this notice:

Sets forth the Commission's determination that the subject of wide-scale use of mixed oxide fuel in the light water power reactor fuel cycle requires a full assessment of safeguards issues before the Commission's decision is made;

Specifies the procedures and schedule to be followed for completion of the environmental impact statement on wide-scale use of mixed oxide fuel and for the conduct of the associated hearings; and

Sets forth criteria under which certain licensing actions can proceed in the interim prior to the Commission's decision on the wide-scale use of mixed oxide fuel.

SUMMARY

After a careful review of all comments received on its May 8th provisional views, the Commission has determined that the subject of wide-scale use of mixed oxide fuel in the light water power reactor fuel cycle requires a full assessment of safeguards issues before its decision is made. At the same time, the Commission firmly believes that it is in the national interest to expedite the decision-making process to the extent consistent

[1] Fuels containing both plutonium oxide and uranium oxide.

with sound and full examination of the issues.

Safeguards measures are those measures employed to prevent the theft or diversion of special nuclear materials and to prevent the sabotage of nuclear facilities. The Commission has directed its Staff to prepare, on an accelerated schedule, and then to circulate for written comment, a safeguard supplement to the draft environmental statement which was issued by the Atomic Energy Commission Staff in August, 1974. The supplement will include an analysis of the costs and benefits of alternative safeguards programs, and a recommendation as to safeguards associated with wide-scale use of mixed oxide fuel. The Commission has also directed its Staff to expedite preparation of all aspects of the final environmental statement, including safety and environmental matters as well as safeguards matters. Proposed rules reflecting the final statement's analysis of those matters will be published for public comment by the Commission.

In issuing its provisional views on May 8, the Commission contemplated that a final environmental statement would not be completed until late 1976. It now appears possible to complete the draft safeguards supplement in early 1976, and to complete all aspects of the final environmental statement in mid-1976.

The Commission has determined that, in the interest of informed decisionmaking, public hearings will be held on the final statement and the proposed rules relating to wide-scale use. The Commission regards a decision-making process that is both sound and expeditious to be of crucial importance, and believes that both considerations can be compatibly accommodated in its public hearing procedures. Such an accommodation will be fostered by a legislative-type hearing using a mixture of written and oral presentations, in which participants can be examined by the presiding board on relevant policy, factual and technical issues.

The legislative-type hearings will begin as soon as that portion of the final statement dealing with health, safety, and environmental matters is published. Legislative-type hearings will also be held on safeguards matters when that aspect of the final statement is completed. The Commission expects that these hearings will be concluded by the end of 1976. The legislative-type hearings may be followed by adjudicatory-type hearings on particular issues if need for further hearings on such issues is demonstrated to the Commission. If there is no demonstrated need for adjudicatory-type hearings, the Commission expects that its own final decision will be rendered in early 1977. The Commission cannot say at this time whether adjudicatory-type hearings will be in order, or how long they would take if held—their actual duration being dependent on the number and complexity of the issues found by the Commission to need adjudicatory treatment.

The Commission has reappraised the guidelines it set forth in its provisional views for determining what related activities could be permitted pending its final decision. The resulting Commission determinations are summarized below.

Staff Review and Hearings. The Commission has decided that Staff reviews and hearings relating to fuel recycle activities should continue up to the point of actual licensing.

Interim Licensing of Fuel Cycle Facilities. On the matter of actual licensing, in addition to the eligibility criteria set forth below, a primary concern of the Commission is to assure that any license granted in the interim prior to a final Commission decision on wide-scale use of mixed oxide fuel is (1) consistent with the Commission's responsibilities to protect the public health and safety and the common defense and security, and (2) compatible with environmental values. Licenses for individual fuel cycle facilities will be issued in the interim, where warranted, consistent with the above, only after analysis and balancing of the following factors:

Whether the activity can be justified from a cost-benefit standpoint under the National Environmental Policy Act of 1969, without placing primary reliance on an anticipated favorable decision on wide-scale use of mixed oxide fuel;

Whether the activity would give rise to an irreversible and irretrievable commitment of resources that would unjustifiably foreclose for the activity substantial safeguards alternatives that may result from the decision on wide-scale use; and

The effect of delay in the conduct of the activity on the overall public interest.

The individual impact statement or appraisal, as appropriate, for each individual fuel recycle related licensing action subject to the foregoing eligibility criteria will describe the relationship between the licensing action at issue and the environmental impact statement on wide-scale use, and discuss the application of the criteria to the facts of the case.

Interim Licensing for Use of Mixed Oxide Fuel in Reactors. With respect to interim licensing of mixed oxide fuel in light water nuclear power reactors, the Commission believes that use of such fuel could produce useful additional economic and technical data. Such use would neither constitute nor markedly contribute to "wide-scale use" because of the limited mixed oxide fuel fabrication capacity that will be available. Such licensing will accordingly be permitted.

Safeguards for Interim Licensing. With regard to existing licensed activities, while experience and continuing study may indicate areas where revisions in its regulations should be made, the Commission is confident that, in light of the types and numbers of facilities and amounts of materials involved, the safeguards framework described below is adequate to enable the Commission to carry out its responsibilities to protect the public health and safety and the common defense and security.

The Commission is of the same view as regards the interim use of mixed oxide fuel in light water power reactors, and the associated transportation of reactor fuel. The Commission believes that those activities, so regulated, impose little or no increase in current levels of risk associated with loss or diversion of plutonium, and that current safeguards will provide adequate protection for interim licensing of its use. Interim licensing of initial processing of spent fuel to separate its uranium and plutonium constituents, of conversion of the uranium constituent to uranium hexafloride, and associated transportation links, can also proceed on the basis of current safeguards regulations. With respect to interim licensing of other fuel cycle activities which may demonstrate eligibility (i.e., plutonium nitrate-to-oxide conversion and mixed oxide fuel fabrication, and associated transportation links), the Commission expects to publish proposed safeguards rules for the interim in the FEDERAL REGISTER at the same time as issuance of the draft safeguards supplement in early 1976. Final safeguards rules for licensing such fuel cycle activities in the interim will be adopted after public comment procedures, at the time the Final Environmental Statement is issued (mid-1976).

The Appendix to this Notice sets forth, in sequential matter, the projected times for completion of the draft and final publication of safeguards rules relating to interim licensing and rules regarding wide-scale use of mixed oxide fuel; for commencement and conclusion of legislative-type hearings; and for the final Commission decision on wide-scale use.

BACKGROUND

On February 12, 1974, the Atomic Energy Commission (AEC) announced that a generic environmental impact statement would be prepared prior to an AEC decision on the wide-scale use of mixed oxide fuel (also referred to as plutonium recycle fuel) in light water nuclear power reactors (39 FR 5356). On August 21, 1974, notice was published in the FEDERAL REGISTER that a draft environmental impact statement on this matter had been prepared, pursuant to the National Environmental Act of 1969 (NEPA), by the AEC Staff (39 FR 30186).

The principal conclusion in the draft environmental impact statement issued by the AEC Staff was that utilization of plutonium resources as recycle fuel in light water nuclear power reactors should be approved. The AEC Staff reached favorable conclusions with respect to matters of public health and safety, and the environment. The AEC Staff found in this connection that the total environmental impact from the nuclear fuel cycle, using mixed oxide fuel, would be slightly reduced, and that the safety of light water power reactor operations would not be adversely affected. The draft statement further reflected that uranium reserves would be extended, and that requirements for uranium enrichment would be reduced. Although the

draft environmental impact statement did not set forth a fully developed and detailed cost-benefit analysis of alternative safeguards programs, it did review the then current safeguards program, presented some cost estimates for safeguards, and noted numerous measures that could contribute to upgrading of that program. The Staff concluded that the safeguards problems would be manageable and that there did not appear to be any safeguards related rationale sufficient to delay a decision to permit the use of mixed oxide fuel for light water power reactors or associated production activities.

The AEC Staff stated in the draft statement that indications at that time pointed to decisions on safeguards upgrading within about one year after issuance of the final environmental statement. At the time, the AEC Staff expected that this separate decision on the safeguards measures necessary for wide-scale use would be made by mid-1976. However, this estimate did not include any time for preparation and issuance of draft and final environmental impact statements on the safeguards measures or any public proceeding.

In a January 20, 1975 letter to the Nuclear Regulatory Commission, the President's Council on Environmental Quality expressed the view that, although the draft environmental statement was well done and reflected a high quality effort, it was incomplete because it failed to present a detailed and comprehensive analysis of the environmental impacts of potential diversion of special nuclear materials and of alternative safeguards programs to protect the public from such a threat. The Council believed that such a presentation should be made by the Nuclear Regulatory Commission before its final decisions on plutonium recycle. The Council also expressed the view that the Nuclear Regulatory Commission should take care to avoid actions which would foreclose safeguards alternatives or which would result in unnecessary "grandfathering" during the period in which the safeguards issue is being resolved.

On May 8, 1975, following its consideration of the relevant issues, the Commission published in the FEDERAL REGISTER its provisional views regarding the decisional course it would follow on wide-scale use of mixed oxide fuel (40 FR 20142). The Commission's provisional views were that, subject to consideration of comments to be received:

(1) A cost-benefit analysis of alternative safeguards programs should be prepared and set forth in draft and final environmental impact statements before a Commission decision is reached on wide-scale use of mixed oxide fuels in light water nuclear power reactors.

(2) There should be no additional licenses granted for use of mixed oxide fuel in light water nuclear power reactors in the interim prior to the decision on wide-scale use except for experimental purposes; and

(3) With respect to light water nuclear power reactor fuel cycle activities (activities other than nuclear power reactor construction and operation) which depend for their justification on wide-scale use of mixed oxide fuel in light water nuclear power reactors, there should be no additional licenses granted in the interim which would foreclose future safeguards options or result in unnecessary "grandfathering". This would not preclude the granting of licenses in the interim for experimental and/or technical feasibility purposes.

The Commission indicated in the May 8th Notice that, in developing its provisional position on these issues, it took due account of the views of the President's Council on Environmental Quality, both in terms of the substance of those views, and in recognition of the Council's role in reviewing Federal activities for consistency with the policies of NEPA and in formulating guidelines for the preparation of environmental impact statements.

In the May 8th Notice the Commission requested the views of interested persons on these provisional views. Comments were requested in particular on (1) the relative merits of the Commission's provisional approach to preparation of the generic environmental impact statement and of the earlier approach adopted by the AEC Staff, or other alternatives, from the standpoint of the relevant policy, factual, and legal considerations; (2) whether the question of deferring future licensing actions related to the use of mixed oxide fuels should be left for resolution in individual licensing proceedings, or addressed by the Commission as a generic matter; and (3) the appropriateness of the Commission's guidelines for resolving the individual licensing actions set forth above. Comments were requested by June 9, 1975.

On May 27, 1975, before the expiration of the original comment period, the Commission held public meetings with industry groups and other interested persons to respond to questions seeking clarification of the May 8th Notice. The comment period later was extended until July 24, 1975.

Over two hundred comments were received in response to the May 8th Notice. These comments have been placed in the Commission's public document room and are available for review by the public.[2]

The comments focused to a major extent on four general issues:

(1) The desirability of completing a cost-benefit analysis of alternative safeguards programs as a part of the Commission decision on the wide-scale use of mixed oxide fuel in light water nuclear power reactors;

(2) The desirability of permitting various related licensing actions to be taken pending a Commission decision on wide-scale use;

(3) The adequacy of present Commission regulations to protect against loss or diversion of plutonium associated with related licensing actions in the interim period; and

(4) The procedures to be utilized by the Commission in reaching a decision on wide-scale use of mixed oxide fuel, including hearing procedures.

With respect to those comments which specifically addressed the first issue noted above, comments from five utilities, nine environmental groups, four state or local government agencies, two Senators, one Congressman, one vendor, and two private law firms indicated that a cost-benefit analysis of alternative safeguards programs should be included as part of the Commission decision on wide-scale use. Comments from twenty-eight utilities, five vendors, two industry/trade associations, one state government agency, one federal agency, one engineering company, one university department, and ten private citizens indicated a belief that such a cost-benefit analysis was not needed. Comments from five utilities contained a proposal that the decision on wide-scale use include an analysis that would place an upper limit on safeguards costs, but that the detailed cost-benefit analysis be postponed until some time subsequent to the decision on wide-scale use.

Of those comments specifically addressing the second issue (the matter of interim licensing), eighteen utilities, two vendors, one trade association, one state government agency, and one engineering firm did not believe that any restrictions on interim licensing were necessary. Thirty-two utilities, six environmental groups, eight vendors, three industry/trade associations, four state and local government agencies, two federal agencies, and five private citizens indicated that some related licensing actions should be taken in the interim, subject to certain restrictions and limitations. Comments from eight private citizens, one Congressman, one environmental group, and one county government urged that no related licensing action be taken in the interim period.

Of those who specifically addressed the third issue (adequacy of present safeguards requirements), thirty utilities, fifteen vendors and processors, eight private citizens, two federal agencies, and one state government agency believed that present safeguards requirements were adequate for interim licensing; while eight private citizens, one Congressman, one environmental group and one county government believed that present regulations were inadequate for this purpose in the absence of further analysis. On the final issue (procedures for reaching the ultimate decision), while there was general agreement on the desirability and feasibility of a prompt decision on the widescale use of mixed oxide fuel, a wide variety of procedures were suggested for accomplishing this objective.

The comments received contributed greatly to the Commission's informed consideration of the issues involved.

PRESENT USES OF PLUTONIUM IN THE LIGHT WATER REACTOR FUEL CYCLE

Light water nuclear power reactors (LWRs) have characteristically been

[2] Three supplementary statements received in response to a Staff request for additional information contained a request that certain information submitted be withheld from public disclosure as proprietary information. None of this information is included in this Notice and none of this information has been relied on in reaching any conclusions in this Notice.

fueled with slightly enriched uranium, i.e., uranium in which the naturally occuring fissile isotope uranium-235 has been concentrated from its natural abundance of 0.7 percent to about 3 percent through a process called isotopic enrichment. Essentially all of the other 97 percent of the uranium in the fuel is the isotope uranium-238.

The heat energy produced during the operation of newly fueled light water reactors comes almost entirely from the fissioning of the uranium-235 atoms in the fuel. As the reactor operates, atoms of plutonium are produced from uranium-238 atoms. For each gram of uranium-235 consumed in LWR fuel, as much as 0.9 grams of fissile plutonium is formed within the fuel. Generally, more than half of that plutonium subsequently fissions in place, thus contributing about one-third of the energy produced in the power plant. In fact, just before expended fuel is discharged from the reactor, more than half the fissions occuring in that fuel are fissions of plutonium rather than uranium. Thus, all operating uranium-fueled light water power reactors generate plutonium, some of which is consumed in the reactor without external recycle.

From the early days of the nuclear power industry in this country, electric utilities planning to construct and operate light water nuclear power reactors contemplated that the used, or spent, fuel discharged from the reactors would be chemically reprocessed to recover the quantities of plutonium and uranium that escaped fission in the reactor, and that the plutonium and uranium so recovered would be recycled back into fresh reactor fuel. From 1957 until 1972 the AEC carried out an extensive program of spent fuel recycle research and development at a total cost of over one hundred million dollars. Direct support by AEC of this research terminated in mid-1972, although indirect support by the AEC continued through cooperative efforts with industry whereby AEC supplied plutonium for demonstration of mixed oxide fuel use.

Industry plans are to carry out the spent fuel recycle process in the following steps:

(1) Store the spent fuel to allow some decay of radioactivity;
(2) Separate plutonium and uranium from fission product wastes as nitrate solutions;
(3) Convert the uranium to uranium hexafluoride which is then enriched to increase the concentration of the fissile isotope uranium-235;
(4) Convert the uranium hexafluoride to uranium dioxide;
(5) Convert the plutonium nitrate to plutonium oxide;
(6) Manufacture fuel rods with pellets containing mixed plutonium and uranium oxides;
(7) Fabricate fuel elements containing fuel rods of mixed oxide fuel;
(8) Convert the fission product wastes into forms suitable for long term storage;
(9) Transport materials as required by the above processing, production, or storage operations.

The spent fuel which is the starting point of the overall recycle process produces highly penetrating radiation and thus is very hazardous to anyone exposed to it. Accordingly, the separations step, the second of the above steps, must be carried out behind massive shielding and with the use of remote operating technology. In the separations processes the fuel elements are sheared and the fuel materials dissolved prior to the separation of the constituents. After the plutonium and uranium nitrate solutions have been separated from the fission products and purified, the purified materials no longer contain the highly penetrating radiation which is inherent to the fission products. Thus, after the separations step, the plutonium and uranium products are significantly less radioactive.

The conversion of recovered uranium to uranium hexafluoride, subsequent isotopic enrichment and manufacture of low enriched uranium oxide fuel would be carried out in essentially the same type facilities and operations that are utilized when starting from naturally occurring uranium. The basic technology for conversion of plutonium nitrate to its oxide and for carrying out the manufacture of mixed oxide fuel has been developed in both government and industrial plutonium utilization programs. However, the capacity of the facilities presently licensed for this use and the quantities of material that have been handled to date are of a magnitude far below that which would be involved in wide-scale use.

The conversion of limited quantities of fission product wastes into forms suitable for long term storage has been performed by a variety of methods in research and development programs. However, only small quantities of fission product wastes from commercial recycle of spent fuel have been generated to date and no commercial scale facilities for the conversion of such wastes have been designed or licensed to date.

Mixed oxide fuel and the materials involved in the fabrication of the fuel are being transported today and considerable experience exists with the factors involved in these transportation arrangements. Wide-scale use of mixed oxide fuel in light water reactors will require transport of larger amounts of commercial fuel materials in their various forms than are being transported today, but no other transportation factors of significance are introduced. To date fission product wastes have not been shipped to facilities for long term storage; thus, such shipment, while not judged to be markedly different from the shipment of spent fuel itself with regard to health and safety, environmental and safeguards considerations, has not been performed by industry.

At present, three light water nuclear power reactors (Big Rock Point in Michigan, Quad-Cities 1, and Dresden 1 in Illinois) are licensed to operate with mixed oxide fuel. The number of mixed oxide fuel rods in these reactors ranges from less than 0.1 percent in a commercial size (800 megawatts of electricity) reactor, Quad-Cities 1, to about eleven percent in a very small (70 megawatts of electricity) reactor, Big Rock Point.

There are in operation today no plants for reprocessing of light water reactor spent fuel or mixed oxide fabrication plants of the size contemplated for wide-scale use. However, the Nuclear Fuel Services reprocessing plant at West Valley, New York, which is presently shut down, operated between 1966 and 1971, during which period this plant processed about 640 metric tons of spent fuel of which about one-half was uranium oxide fuel. Also, there are a number of small mixed oxide fuel fabrication plants in operation licensed to produce limited quantities of mixed oxide fuel. Their capacity is a small proportion of the capacity required to produce mixed oxide fuel for commercial reloads of the nation's existing light water reactors.

The Commission has pending before it several related licensing actions. One is Nuclear Fuel Services' application for a permit to construct alterations and expansions (Docket No. 50-201) at their existing plant. Allied General Nuclear Services' proposed separations and uranium conversion facilities in Barnwell, South Carolina, the construction of which began in 1970 and 1973, respectively, are nearing completion. The separations facility is the subject of a pending licensing proceeding before the Commission (Docket No. 50-332, together with a related matter, Docket No. 70-1729). In addition, an application by Westinghouse Electric Corporation for a license for a proposed mixed oxide fuel fabrication plant near Anderson, South Carolina, has been received and is undergoing review by the Commission's Staff. Other firms have expressed an interest in various plutonium recycle related activities, but have not filed any license applications.

General Policy Objectives of the Commission

In considering and arriving at its various determinations, the Commission was motivated by several basic policy objectives in carrying out its responsibilities under the Atomic Energy Act and NEPA. In keeping with its general approach to regulatory matters, it sought to structure a decisional process which will assure thorough consideration of all salient factors and achieve this as expeditiously as practicable. It was the Commission's companion objective that this decisional process result in determinations that are sufficiently definitive and well-founded to allow firm planning by the nuclear industry. Further, the Commission was mindful of the need for sound guidelines to provide for such interim licensing as is compatible with the Commission's decisional course and consistent with the overall public interest.

Treatment of Safeguards in the Environmental Statement and Procedures for Decision

In light of its review of comments received in response to the May 8th Notice and its further deliberations, and consistent with the foregoing policy objectives, the Commission has concluded that

a decision on wide-scale use of mixed oxide fuel in light water nuclear power reactors should be preceded by a full assessment of relevant safeguards issues. The Commission has also concluded that a cost-benefit analysis of alternative safeguards programs should be included as a part of the environmental impact statement on wide-scale use of mixed oxide fuel. It has directed its Staff to prepare a cost-benefit analysis, including a recommendation as to the preferred requirements, in the form of a supplement to the draft statement previously circulated for comment. This supplement should be completed in early 1976, and will be circulated for comment.

The comments on the non-safeguards portions of the draft statement will be considered and that portion of the final statement will then be prepared and issued in early 1976. The remainder of the final environmental impact statement, which should be completed in mid-1976, will include a final safeguards cost-benefit analysis and an overall cost-benefit balance.

The public will continue to be afforded the opportunity to participate in the Commission's decision on wide-scale use, not only by submission of written comments on the supplement to the draft environmental statement, but also by the opportunity for participation in public hearings which will be held on both portions of the final environmental impact statement. The Commission intends that these hearings commence following issuance of the relevant portion of the final impact statement.

The Commission regards a decision-making process which is both sound and expeditious to be of crucial importance and believes that both considerations can be compatibly accommodated in its public hearing procedure. This accommodation will be fostered by legislative-type hearings on all relevant issues. The Commission will establish a board to preside at those hearings. The hearing board will be expected to establish reasonable time limits for the conduct of the proceedings. All direct testimony for the legislative-type hearings will be filed in advance. The board will be expected to question witnesses, and participants will be permitted to suggest questions to the board, but there will not be direct cross-examination of participants by other participants.

It may be that some factual issues cannot be resolved adequately on the basis of a record developed in this manner. Following completion of the legislative-type hearings, participants will have the opportunity to dentify any such issues of fact for which direct cross-examination by the participants is needed for a sound decision. The participant requesting cross-examination on one or more such issues will be expected to demonstrate why the legislative-type procedures have not proved adequate. After consideration of any such requests and the views of the other participants thereon, the Commission will determine whether there is any need for further hearings, with opportunity for cross-examination, on specified issues. Following the hearings, the board will certify the record to the Commission for use in its decision.

The procedures for hearing will be set forth in more detail in a Notice of Hearing which will be issued by the Commission in the near future.

The Commission expects to publish proposed safeguards rules governing *interim* licensing of plutonium conversion and fuel fabrication when the supplement to the draft statement is issued. A written comment procedure will then be available. These interim requirements would be promulgated in final form when the last portion of the generic impact statement is issued in mid-1976.

In addition, the Commission intends to issue proposed amendments to its rules and regulations relating to the licensing of *wide-scale* use of mixed oxide fuels in notices of proposed rulemaking to be published in the FEDERAL REGISTER at about the time relevant portions of the impact statement are completed. These proposed amendments will address safety, environmental, and safeguards matters associated with wide-scale use of mixed oxide fuel.

In addition to the usual opportunity for written public comment on these rules, an opportunity will be afforded for consideration of them during the hearing process. The Commission intends to promulgate appropriate rules in final form at the time of its final decision.

INTERIM REVIEWS

Only a few light water nuclear power reactors in the United States use any mixed oxide fuel, domestic fuel fabricators produce little mixed oxide fuel on a commercial basis, and no domestic reprocessing of commercial light water power reactor spent fuel occurs at present. If the applicant's schedule were met and the Commission authorized its operation, the fuel separations and uranium conversion facilities at the Barnwell plant (with estimated processing capacity of about 1500 metric tons of spent fuel per year) could start up in late 1976 to early 1977. The recovered uranium would then have to be chemically converted, reenriched and fabricated into fuel, before it could be recycled back into light water power reactors. No application has been filed for a plant in which plutonium nitrate would be converted to plutonium oxide. If such an application were filed and authorization for such conversion were granted, it is unlikely that the plant could commence operation any earlier than mid-1979.[3] The proposed modified and expanded NFS reprocessing plant (with estimated reprocessing capacity of about 750 metric tons of spent fuel per year) is still under design and, if authorized, is not expected to be in operation before about 1982. No construction has commenced on the proposed Westinghouse mixed oxide fabrication plant (200–400 metric tons of mixed oxide fuel per year) and it is not likely that the plant will, if authorized, be in operation before 1980. Other plutonium recycle related plants may be in the planning stage, but license applications for activities of this type have been filed only for the three plants noted above.

Given these practical limitations on the availability of mixed oxide fuel in the United States before the early to mid-1980's—long after the Commission's decision will have been made—two limited questions are presented at this time for Commission consideration: first, whether and, if so, to what extent Staff reviews and public hearings regarding related license applications should be commenced or continued prior to the Commission decision on the wide-scale use of mixed oxide fuel; and second, whether the Commission should, in the exercise of its regulatory responsibilities, issue licenses or other approvals for fuel recycle activities in this interim period. These issues are treated in turn.

Staff Reviews and Public Hearings. Staff reviews of the various license applications described above are now in process. The Commission believes that these reviews should continue and that Staff reviews can also commence and continue with respect to any future fuel recycle related license applications that may be filed during the interim prior to the Commission decision on the wide-scale use of mixed oxide fuel. Any such applications must show compliance with detailed and stringent health and safety and environmental requirements, independent of generic issues regarding safeguards for the wide-scale use of mixed oxide fuel; and it would serve no useful purpose to delay consideration of these factors until after the ultimate decision. Continuation of Staff reviews in the interim would also serve to facilitate early identification of any significant problems, or areas in which plant design might be improved or additional data should be obtained.

It is recognized, of course, that Staff Safety Evaluations or Environmental Impact Statements may need to be supplemented in light of the Commission's final decision should that decision be favorable, but this is a matter that can be determined once that decision has been made.

The Commission also has carefully considered whether public proceedings should be commenced or continued short of license issuance for all related license applications in the interim period. The Commission has concluded that the considerations discussed above also are applicable to the initiation or continuation of formal public proceedings. However, in recognition of the fact that such proceedings entail commitments of resources by persons other than the Commission's Staff, the Commission has decided that no rigid requirement for proceeding on all issues should be adopted. Rather, the Commission believes that any required formal public proceedings should be ini-

[3] Under 10 CFR § 71.42, after June 17, 1978, plutonium in excess of 20 curies per package must be shipped in a solid form (i.e., oxide rather than nitrate).

tiated, but that the individual Atomic Safety and Licensing Boards should decide, within the framework of the guidance set forth below, when evidentiary public hearings should be held and partial decisions rendered on specific issues. In making such decisions, the licensing boards should consider: (1) the degree of likelihood that any early findings on the issue(s) would retain their validity following the Commission's final decision on wide-scale use of mixed oxide fuel and implementing regulations; and (2) the possible effect on the public interest and the litigants in having an early, if not necessarily conclusive, resolution of the issue(s).

INTERIM LICENSING

Aside from the issue of whether Staff reviews and public hearings should be continued, the Commission also considered the question of whether, in the exercise of its regulatory responsibilities, it should issue licenses or other approvals for limited fuel recycle activities in the interim period.

The Commission has concluded that interim licenses may be issued for fuel recycle related activities; eligibility for consideration of such licensing will depend on criteria which call for an analysis and balancing of specified factors. These criteria, which will be explained more fully below, deal with whether the activity can be justified from a NEPA cost-benefit standpoint without placing primary reliance on an anticipated favorable Commission decision on wide-scale use of mixed oxide fuel, whether the activity would unjustifiably foreclose substantial safeguards alternatives for the activity, and the effect of delay in the conduct of the activity on the overall public interest. The Commission also has concluded that use of mixed oxide fuel in light water nuclear power reactors, which is in any event limited by practical constraints, may be permitted in the interim. For interim licensing of certain types of fuel cycle activities augmented safeguards requirements may be imposed as discussed below.

In reaching its general conclusion that individual interim licenses may be issued where warranted, and under the specific conditions discussed in this notice, the Commission assessed the likely benefits of allowing such interim licensing as well as the possible adverse impacts. Here, as in other decisional areas, the need for careful balance was evident. While the Commission is properly mindful that certain licensing actions have the potential for foreclosing subsequent alternatives, it cannot disregard the equally hard reality that inaction or a blanket prohibition on fuel recycle related licensing actions could also foreclose or substantially impede realization of energy alternatives which may contribute significantly to meeting national needs.

PROTECTION OF THE PUBLIC HEALTH AND SAFETY, THE COMMON DEFENSE AND SECURITY AND THE ENVIRONMENT

The Commission believes that any public health and safety and environmental issues associated with interim licensing can be addressed adequately under the Commission's regulations within the context of the reviews of the individual license applications. The Commission is of the view that interim licensing of a particular activity would not foreclose for that activity significant health and safety or environmental alternatives that may result from the final decision on wide-scale use of mixed oxide fuel. This confidence is based on the health and safety and environmental conclusions in the August 21, 1974 draft environmental impact statement, the comments received thereon (including the comments of the Council on Environmental Quality), and the comments received on the Commission's provisional views of May 8, 1975.*

The Commission is also of the view that, for the reasons given above and because of the limited number and type of plants involved, interim licensing of particular projects prior to completion of the generic environmental impact statement would not result in the overlooking of any cumulative health and safety or environmental impacts or in the foreclosure of alternatives to other projects that could only be addressed in the generic environmental statement.

For the same reasons the Commission believes that interim licensing is not likely to result in such a substantial further commitment of resources that the final decision on the costs and benefits of the public health and safety and environmental aspects of wide-scale use of mixed oxide fuel would be significantly affected or that generic determinations on such aspects would be foreclosed. The matter of foreclosure of safeguards alternatives is addressed below.

Overall Public Interest. Broad public interest considerations must be weighed in determining the appropriateness of interim licensing. Whether the Commission decision on wide-scale use of mixed oxide fuel is favorable or unfavorable, an absolute prohibition on the conduct of any related activities in the interim could result in the disruption or cessation of planning as well as the production of useful data. Such a prohibition could result in potentially serious delays in exploring alternatives which could contribute to meeting the nation's energy needs. This could impose future economic penalties on the American public through increased costs to electric utilities caused by delaying the use of resources available in spent fuel and requiring additional spent fuel storage facilities that otherwise would not be needed.

The Commission, therefore, has concluded that it will be in the public interest to permit interim licensing under interim licensing eligibility criteria which are set forth below.

Foreclosure of Safeguards Alternatives. In view of the limited number of fuel recycle related license applications, the Commission believes that any interim licensing is highly unlikely to result in such a substantial further commitment of resources that the decision on the costs and benefits of safeguards measures appropriate for widescale use of mixed oxide fuel would be significantly affected or that generic safeguards determinations would be foreclosed. It is recognized that interim licensing of a particular project could, depending on the circumstances, have a tendency to foreclose the later adoption of safeguards alternatives to the particular project. Of course, where substantial commitments of resources have already been made to a particular project, additional commitments to the project are far less likely to have this result. With respect to the use of mixed oxide fuel in reactors, it is not likely that significant design changes would be required to accommodate loading of mixed oxide fuel, and the fuel can always be removed and the reactor refueled with uranium fuel. Thus, authorization for use of mixed oxide fuel in light water power reactors in the interim is not likely to foreclose safeguards alternatives significantly. The interim licensing criteria reflect these considerations as well.

Any related licenses that may be issued by the Commission in the interim prior to the final decision on the wide-scale use of mixed oxide fuel must also include adequate measures to protect against loss or diversion of the quantities of plutonium that may be involved. These interim safeguards requirements are discussed later in this notice.

Dependency on Wide-Scale Use. Potentially significant benefits associated with interim licensing include the production of useful additional economic and technical data regarding the operation of reprocessing facilities and other fuel cycle plants and the operation of reactors with mixed oxide, the value of the fuel that could be recovered in reprocessing and recycled into fresh reactor fuel, and amelioration of a possible shortage of spent fuel storage capacity.

Major Commission actions, such as licensing the operation of commercial fuel reprocessing facilities or operation of fuel element fabrication plants, require preparation of an environmental impact statement under NEPA. Such an impact statement would set forth a conclusion whether the environmental costs that are associated with the project are justified in light of the benefits. The benefits described above could, depending on the circumstances of the case, be sufficient under NEPA to offset the environmental costs of a particular project. However, it is possible that some projects may be so integrally related to the wide-scale use of mixed oxide fuel that the environmental costs associated with the project could only be justified by assuming that wide-scale use of mixed oxide fuel will take place. In the Commission's view, the degree of dependency of a particular project on a favorable decision on the wide-scale use of mixed oxide fuel should be assessed along with other rele-

* The so-called plutonium "hot particle" matter, which is the subject of a petition for rulemaking that is pending before the Commission, is expected to be resolved in the near future. Docket No. PRM 20-5.

vant considerations in determining whether any interim license for the project should be issued.

INTERIM LICENSING ELIGIBILITY CRITERIA

The Commission has determined that whether specific fuel recycle related activities (as defined below) should be authorized in the interim will be determined within the context of the individual licensing proceedings on the basis of consideration and balancing of the following factors:

(1) Whether the activity can be justified, from a NEPA cost-benefit standpoint, without placing primary reliance on an anticipated favorable Commission decision on wide-scale use of mixed oxide fuel;

(2) Whether the activity would give rise to an irreversible and irretrievable commitment of resources that would unjustifiably foreclose for the activity substantial safeguards alternatives that may result from the decision on wide-scale use; and

(3) The effect of delay in the conduct of the activity on overall public interest.

These criteria will be applied to all applications for licenses or permits or amendments thereto for fuel recycle related activities (other than reactor construction and operation), such as commercial nuclear fuel reprocessing and mixed oxide fuel fabrication, and all regular actions that would have the effect of permitting commencement of construction of any such light water nuclear power fuel cycle plants.[5]

Operating licenses and amendments to operating licenses may be issued authorizing use of mixed oxide fuel in light water nuclear power reactors without case-by-case application of the eligibility criteria for fuel cycle activities described above. The Commission believes that this use of mixed oxide fuel in the interim could produce useful additional economic and technical data. This concept was reflected in the Commission's provisional views as set forth in the May 8th Notice, which favored permitting continued use of mixed oxide fuel in reactors for experimental purposes. Significant design changes in light water reactors will not be required for likely uses of mixed oxide fuel elements, which can readily be replaced with uranium fuel should circumstances require. As noted previously, all operating uranium-fueled light water power reactors generate plutonium, some of which is consumed in the reactor without external recycle. In the interest of obtaining a broader data base, no limits will be placed on the number of light water reactors for which such authorizations may be granted. The Commission is mindful, however, that the use of mixed oxide fuel in reactors during the interim will necessarily fall far short of wide-scale use, because of the limited mixed oxide fuel fabrication capacity that will be available. The Commission expects to make its decision on wide-scale use well before this situation could significantly change.

Applications for export or import of mixed oxide fuels, or for import of plutonium for domestic or re-export use in mixed oxide fuels, will be similarly constrained during the interim period by the absence of facilities here or abroad capable of processing and fabricating mixed oxide fuels at levels approaching wide-scale use. Accordingly, here too, no special measures are now required.

INTERIM LICENSING SAFEGUARDS

As is the case with all licenses issued by the Commission, any interim license that may be issued for nuclear power reactor fuel cycle activities will be subject (by regulation or order) to possible additional safeguards requirements. All interim activities that may be authorized pursuant to the above eligibility criteria will be conducted at the risk of the applicant, and be expressly subject to amendment, suspension, or revocation in light of the Commission decision on wide-scale use of mixed oxide fuel.

The Commission's program for safeguarding nuclear facilities and materials involves continual review and regulatory improvements. Current safeguards regulations are set forth in 10 CFR Parts 70 and 73. The regulations in Part 70 provide for material accounting and control requirements with respect to facility organization, material control arrangements, accountability measurements, statistical controls, inventory methods, shipping and receiving procedures, material storage practices, records and reports, and management control.

The Commission's current regulations in 10 CFR Part 73 provide requirements for the physical security and protection of fixed sites and transportation involving strategic quantities of nuclear materials. Physical security requirements for protecting fixed sites include the establishment and training of a security organization (including armed guards), provision of physical barriers, establishment of access controls, use of intrusion alarms, arrangements for communication with response forces, and establishment of response plans.

The Commission has also published a notice in the FEDERAL REGISTER that it is considering strengthening its regulations in 10 CFR Part 70 by providing for explicit limits for material balance uncertainty and by setting forth requirements for prompt action when an excessive material balance uncertainty occurs (40 FR 30133). The Commission has further proposed amendments to its regulations in 10 CFR Part 73 which would provide for an increased level of physical protection for shipments by licensees of special nuclear material of high strategic (39 FR 40036), would identify particular measures to be taken for the protection of nuclear power reactors against industrial sabotage (39 FR 40038), and would require advance notice to the Commission of shipments involving certain quantities of special nuclear material and notification of arrival of such shipments at their final destinations (40 FR 15098).

The next major milestones in this process of review and improvement in safeguards are expected to be the completion of the Federal Security Agency Study mandated by section 204(b)(2)(C) of the Energy Reorganization Act of 1974, the completion of the Nuclear Energy Center Site Survey mandated by section 207 of the same Act, and the issuance of the draft safeguards supplement to the environmental impact statement.

The Commission's regulations in 10 CFR Parts 70 and 73 described briefly above are applied in the reviews of individual license and permit applications. License conditions then are developed and imposed which translate the regulations into specific requirements and limitations which are tailored to fit the particular type of plant or facility involved.

With regard to existing licensed activities, while experience and continuing study may indicate areas where revisions in its regulations should be made, the Commission is confident that, in light of the types and numbers of facilities and amounts of materials involved, the above-described safeguards framework is adequate to enable the Commission to carry out its responsibilities to protect the public health and safety and the common defense and security.

The Commission is of the same view as regards the interim use of mixed oxide fuel in light water power reactors, and the associated transportation of reactor fuel. The Commission believes that those activities, so regulated, impose little or no increase in current levels of risk associated with loss or diversion of plutonium. Once irradiation has begun in the reactor, mixed oxide fuel elements present no considerations different from uranium elements—which, as already indicated, immediately begin to generate and use plutonium once loaded in the reactor core. Before that point, the plutonium in the fresh fuel element is highly dilute and dispersed, and encased within metal fuel rods. Shipments are made in heavy assemblies, and recovery of the plutonium would involve a complex and multi-stage chemical process.

The Commission is confident that the safeguards framework of existing and proposed regulations provides an adequate basis for interim licensing of initial processing of spent fuel to separate its uranium and plutonium constitutents, of conversion of the uranium constituent to urainum hexafluoride, and of the

[5] Under the Commission's regulations, applicants for licenses to conduct activities involving use of nuclear materials subject to section 102(2)(C) of NEPA (such as plutonium fuel fabrication) may commence construction of the plant within which the activities are to be conducted upon issuance of the final Staff environmental impact statement and Commission approval of the design bases and quality assurance program for principal structures, systems, and components of the plant. (10 CFR § 70.23(a)(7) and 70.23(b)). The Commission believes that commencement of construction of any such related plants should be subject to the same interim licensing eligibility criteria as apply to those fuel cycle facilities which require issuance of construction permits.

transportation links associated with these activities. The nuclear materials in a separation plant, until the very final processing stages, are in a chemical and physical form, and behind a containment, which make theft or diversion both difficult and personally hazardous, since they remain highly radioactive at these stages. Even at the final stages of the process, the fissile components are not in a form suitable for fabrication of nuclear explosives. Moreover, current regulations provide adequate bases for security of these types of plants. Reprocessing plants are designed and constructed with heavy barriers which limit access to special nuclear material and thus it is unlikely that major adjustments in protection for such plants will be required following the Commission's decision on wide-scale use. Finally, while material control and accounting problems will be introduced with regard to the plutonium inventory in the separation plants, acceptable levels of accountability can be accomplished under present regulations by strengthening plant-specific material balance controls.

The Commission is of the further view that licensing of applications for plutonium conversion and mixed oxide fuel fabrication, and the associated transportation links, should await requirements which can best be established in light of the comprehensive evaluation of safeguards in the supplement to the environmental impact statement. While it appears, on the basis of experience to date and information derived from the ongoing safeguards studies, that reasonable and adequate safeguards measures can be developed for the interim licensing of these activities, the Commission has decided that the particular safeguards regulations for such activities should await completion of the additional studies. The regulations thereafter established, in the manner set forth below, will serve as the basis for licensing reviews and for such licensing decisions on facilities of this type as may take place during the interim period.

The particular safeguards regulations for the foregoing will be the subject of detailed discussion in a notice that will be published in the FEDERAL REGISTER at about the same time as issuance of the draft safeguards supplement to the environmental impact statement (early 1976).

Promulgation of any additional regulations for interim use will take place only after public procedure in accordance with section 553 of title 5 of the United States Code, and receipt and analysis of comments on the draft supplement. The final determination on such regulations will be made by the Commission at about the same time (mid-1976) as issuance of the final portion of the environmental impact statement, which will include the final cost-benefit analysis. These particular safeguards regulations for licensing of plutonium conversion and mixed oxide fuel fabrication would be interim in nature, would apply only to reviews of and decisions on applications for licenses for such facilities during the limited time preceding a Commission decision on wide-scale use and the requirements appropriate thereto, and would be subject to modification in light of the final Commission decision on those matters. As reflected by the earlier-recited status of facility applications before NRC, any licensing that may be authorized prior to the final Commission decision would be limited, as a practical matter, to a few plants. The interim licensing eligibility criteria are designed to assure consideration of both the justification for such licensing, and whether the activity under review would unjustifiably foreclose for the activity substantial safeguards alternatives that may result from the Commission's final decision on widescale use of mixed oxide fuel.

These eligibility criteria and safeguards limitations are in addition to any other applicable Commission licensing requirements set forth in the Commission's regulations. In particular, the Commission expects that individual environmental impact statements or appraisals, as appropriate, would be prepared for fuel recycle related licensing actions subject to the eligibility criteria. The individual impact statement or appraisal would describe the relationship between the licensing action at issue and the environmental impact statement on wide-scale use, and discuss the application of the criteria to the facts of the case.

The Commission believes that the determinations herein are responsive to the need for sound and timely regulatory decisions. The comments received in response to the May 8th FEDERAL REGISTER notice served to provide a constructive focus on the complex issues requiring resolution and contributed greatly to the Commission's informed consideration of those issues.

Dated at Washington, D.C. this 11th day of November, 1975.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

APPENDIX

PROJECTED SCHEDULE OF EVENTS LEADING TO COMMISSION DECISION ON WIDE-SCALE USE OF MIXED OXIDE FUEL

Late 1975—Notice of hearing on issues associated with health and safety, safeguards, and environmental matters arising from wide-scale use of mixed oxide fuel in light water reactors.

Early 1976—Publish proposed environmental and health and safety rules regarding wide-scale use;

Issue draft cost-benefit analysis of alternative safeguards programs as a supplement to the Generic Environmental Statement on Mixed Oxide Fuel;

Publish proposed safeguards rules for interim licensing of plutonium conversion and mixed oxide fuel fabrication activities;

Issue portion of final environmental statement dealing with health and safety and environmental matters.

Mid-1976—Issue final safeguards rules for interim licensing of plutonium conversion and mixed oxide fuel fabrication;

Issue final safeguards supplement and overall cost-benefit analysis to complete the final environmental statement;

Publish proposed safeguards rules regarding widescale use of mixed oxide fuel.

Early 1977—Earliest possible decision on wide-scale use and publication of final rules for wide-scale use of mixed oxide fuel.[1]

[FR Doc.75-30771 Filed 11-12-75;10:00 am]

[Docket No. 50-548-A]

OMAHA PUBLIC POWER DISTRICT AND NEBRASKA PUBLIC POWER DISTRICT

Notice of Receipt of Additional Antitrust Information on Partial Application for Construction Permit and Operating License: Time for Submission of Views on Antitrust Matters

Omaha Public Power District and Nebraska Public Power District, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed an Application for Licenses and a Preliminary Safety Analysis Report, dated September 11, 1975 in connection with their plans to construct a pressurized water nuclear reactor in Washington County, Nebraska. The reactor will be known as the Fort Calhoun Station, Unit 2 and will be located on a site owned by Omaha Public Power District located on the southwest bank of the Missouri River approximately 19 miles north-northwest of the center of Omaha, Nebraska, near the village of Fort Calhoun. This reactor is designed for an initial output of 3425 megawatts. The September 11, 1975 general information portion of the application added Nebraska Public Power District as a co-owner of the proposed Fort Calhoun Station, Unit 2. The November 15, 1974 filing contained the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR Part 50, Appendix L with Omaha Public Power District as sole owner. The Notice of Receipt of Partial Application for Construction Permit and Facility License was published in the FEDERAL REGISTER under Docket No. P-556-A on January 23, 1975, (40 FR 4498).

The remaining portion of the application, consisting of an Environmental Report is expected to be filed by about November 15, 1975. Upon receipt of the remaining portion of the application two notices will be published by the Commission, a Notice of Availability of Environmental Report and a Notice of Hearing. A copy of the partial application, application for licenses and the Preliminary Safety Analysis Report are available for public inspection at the

[1] Legislative-type hearings will begin as soon as practicable after issuance of the partial final environmental statement on health and safety and environmental matters. Assuming adjudicatory hearings are not required a Commission decision on wide-scale use of recycled plutonium could be reached by early 1977. The Commission cannot say at this time whether adjudicatory-type hearings will be in order, or how long they will take if held—their actual duration being dependent on the number and complexity of the issues determined by the Commission as needing adjudicatory treatment.

Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Omaha Public Library, 1823 Harney Street, Omaha, Nebraska 68102, the local public document room. Docket No. 50-548 has been assigned to the application and it should be referenced in any correspondence relating to it. When referring to the antitrust portion of the application, please use Docket No. 50-548-A.

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. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Office of Antitrust and Indemnity, Office of Nuclear Reactor Regulation, on or before January 14, 1976.

For the Nuclear Regulatory Commission.

WALTER R. BUTLER,
Chief, Light Water Reactors Branch 1-2, Division of Reactor Licensing.

[FR Doc.75-30315 Filed 11-13-75;8:45 am]

[Docket No. 50-271-OL]

VERMONT YANKEE NUCLEAR POWER CORP. (VERMONT YANKEE NUCLEAR POWER STATION)

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1973, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

VERMONT YANKEE NUCLEAR POWER CORP.

(Vermont Yankee Nuclear Power Station)

Docket No. 50-271-OL
Operating License No. DPR-28

This action is in reference to the "Notice of Proposed Issuance of Amendments to Facility Operating License", published by the Commission in the above matter (40 FR 28682—July 8, 1975).

The members of the Board are:

Samuel W. Jensch, Esq., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. George A. Ferguson, Member, Professor of Nuclear Engineering, Howard University, Washington, D.C. 20001.

Dr. David B. Hall, Member, Los Alamos Scientific Laboratory, P.O. Box 1663, Los Alamos, New Mexico 87544.

It is so ordered.

Dated at Bethesda, Maryland this 10th day of November 1975.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
Acting Chairman.

[FR Doc.75-30740 Filed 11-13-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets No. 24339, etc.]

HAZARDOUS MATERIALS

Acceptance and Transport by Various Air Carriers; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of November, 1975. (Docket Nos. 24339, 27090, 27148, 27380, 27382, 27428, 27488, 27494, 27495, 27509, 27518, 27519, 27520, 27521, 27527, 27537, 27545, 27546, 27549, 27554, 27560, 27588, 27655, 27806, 27956, 28180; Order 75-11-31)

The Board by this Order, will take action upon numerous matters pending before it relating to the refusal to accept and transport Hazardous Materials by the U.S. domestic air carriers named in Appendix A. The scope of this order will include notices of embargo, applications to extend embargoes, tariff restrictions, rejection of tariffs, and complaints and petitions directed thereto.

Background. By Order 75-2-127, dated February 28, 1975, the Board, *sua sponte*, rejected various embargo notices filed by a number of carriers [1] which gave notice that the carriers were refusing or substantially limiting carriage of all shipments of Hazardous Materials. The grounds for such rejection were essentially that the embargo notices were in divergence from the regulations of the Department of Transportation/Federal Aviation Administration (DOT/FAA), which have the primary responsibility for safety regulations and from proposals or legislation to modify them; that the carriers' embargoes followed a plan of the Air Line Pilots Association, International (ALPA), that would prohibit the carriage of many items necessary for medical purposes; that the embargoes were in derogation of the carriers' obligation to provide adequate service; and that the Board's Embargo Regulations did not apply under these circumstances.[2]

On March 5, 1975, ALPA filed with the Board a petition for reconsideration and for a stay of Order 75-2-127. By Order 75-3-61, dated March 19, 1975, the Board denied the request for stay and deferred action on the petition for reconsideration, and subsequently by Order 75-4-75, dated April 15, 1975, the Board denied ALPA's petition for reconsideration, pending final action by the Court. ALPA petitioned the United States Court of Appeals for the Second Circuit for review of Order 75-2-127, and for stay of the Board's order, pending review. The Court by order dated March 25, 1975, in *Air Line Pilots Association Int'l v. Civil Aeronautics Board*, No. 75-4049, granted the motion filed by ALPA for stay of Board Order 75-2-127 to preserve the *status quo*, pending appeal, and further provided that, pending review of such order, the Board shall cease and desist from unlawfully interfering with the right of air carriers and their employees to refuse to transport property which, in the opinion of such air carriers and their employees, may be inimical to safety of flight.

During the period that the Board was enjoined by the Court's order, the Board did take action to reject certain embargo notices (including denial of applications requesting extension of certain of said embargo notices) and tariff provisions under which the carriers would refuse to transport certain Hazardous Materials. However, these orders [3] contained provisions staying their effective date pending determination of the issues by the Court in the ALPA appeal then pending before it. In a decision dated May 27, 1975, the Court denied the ALPA petition for review. The mandate of the Court has been issued, and the Board will now act upon pending and deferred matters relating to carriage of Hazardous Materials.

The Issues. The following issues have been deferred or are now otherwise before the Board for action:

(1) Disposition of deferral action on Type A radioactive materials and Poison B labeled materials (Orders 74-11-74, dated November 18, 1974, and 74-12-121, dated December 30, 1974);

(2) Disposition of rejection of notices of embargo stayed by order of the Court (Order 75-2-127);

(3) Disposition of rejection of tariffs of Allegheny proposing to establish a provision refusing acceptance of Poison B labeled materials (Order 75-3-13, dated March 6, 1975);

(4) Disposition of denial of a petition for reconsideration of the Air Line Pilots Association, International (Order 75-4-75);

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[1] Alaska Airlines, Inc. (Alaska), Allegheny Airlines, Inc. (Allegheny), Eastern Air Lines, Inc. (Eastern), Frontier Airlines, Inc. (Frontier), Hawaiian Airlines, Inc. (Hawaiian), Ozark Air Lines, Inc. (Ozark), Piedmont Aviation, Inc. (Piedmont), Trans World Airlines, Inc. (TWA), and Western Air Lines, Inc. (Western).

[2] The Board's Embargo Regulations provide that air carriers may file a notice of embargo for a period not to exceed 30 days, and for applications to extend embargoes for further periods. Pending disposition by the Board of such applications, the 30-day limitation does not apply.

Part 228 of the Regulations (14 CFR 228.1), in effect during the relevant periods, defined embargoes as follows:

Embargo means the temporary refusal by an air carrier to accept for transportation over any route or segment thereof, or to or from any area or point of a connecting carrier any commodity type or class of property (other than passenger baggage) duly tendered, where, because of lack of facilities or personnel, or because it is required to give preference or precedence to other traffic entitled to priority, or because of other compelling reasons not within the control of the carrier, it is temporarily unable to perform all of the authorized transportation service requested of it. Refusal to accept property for transportation in accordance with restrictions and limitations in the tariff or the certificate of an air carrier shall not be deemed an embargo.

The Board by Regulation ER-931, adopted September 18, 1975, effective September 18, 1975, amended the definition of embargo by adding that an involuntary postponement or interruption of service, as described in Section 205.8 of Part 205 of the Board's Economic Regulations, does not constitute an embargo.

(5) Disposition of rejection of notices of embargo but stayed by Board order (Order 75–4–75);

(6) Disposition of denial for authority to extend embargoes but stayed by Board order (Order 75–4–75);

(7) Disposition of rejection of tariffs that proposed to establish provisions refusing acceptance of certain Hazardous Materials but stayed by Board order (Order 75–4–75);

(8) Disposition of complaints of DOT requesting enforcement action by the Board but which was deferred by order of the Board (Order 75–4–75);

(9) Disposition of rejection of tariffs of TWA proposing nonacceptance of restricted articles on cargo aircraft if those articles are not acceptable on passenger aircraft but stayed by Board order (Order 75–5–81);

(10) The current tariff provisions on the nonacceptance of Etiologic Agents by Frontier, Northwest Airlines, Inc. (Northwest), and Piedmont;

(11) The current tariff provisions on the nonacceptance of Metallic Mercury by Northwest;

(12) Disposition of Petition for Reconsideration of Order 75–4–75 filed by United Air Lines, Inc. (United) in Docket 27545;

(13) The current tariff provisions on the nonacceptance of Poison B labeled materials by American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern, The Flying Tiger Line, Inc., Frontier, National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Piedmont, TWA, United, and Western;

(14) Complaints filed by the Council for Safe Transportation of Hazardous Articles (COSTHA) in Dockets 27956 and 28180 against revisions to Tariff C.A.B. No. 82 issued by Airline Tariff Publishing Company, Agent, implementing the Flammable Liquids regulations of DOT/FAA as set forth in DOT Docket HM–102; and

(15) COSTHA's motion for expedited consideration in Docket 27956.

Discussion and conclusions. As stated, the Board is here disposing of notices of embargoes, applications to extend embargoes, tariff restrictions, and rejections of tariffs and complaints thereto, all involving carrier restrictions on the transportation of Hazardous Materials that may be more restrictive than regulations or proposed regulations of DOT/FAA. We are affirming the principle set forth in the Board orders cited above, and for the reasons set forth therein, that the carriers' refusal to transport this traffic must be consonant with DOT/FAA Regulations. Specifically, Section 404(a) of the Federal Aviation Act of 1958 places upon every air carrier holding a certificate of public convenience and necessity an affirmative duty to provide and furnish adequate air transportation as authorized by its certificate. Congress has subjected the prerogative of the carriers to refuse to transport Hazardous Materials to reasonable rules and regulations prescribed by the Secretary of Transportation (Secretary) (Section 1111 of the Act). Title VI of the Act places a duty upon the Secretary to prescribe reasonable rules and regulations governing such practices as the Secretary may find necessary to provide for safety in air commerce. And the Secretary has prescribed at length what material may be carried in passenger-carrying aircraft, as well as on all-cargo aircraft, the permissible amounts and packaging requirements therefor, what material may not be carried, etc. (14 CFR Part 103).

Further, the Board has previously accepted in principle the primary responsibility of DOT for regulations governing the transportation of Hazardous Materials. The Board's Regulations (Section 221.38(a)(5)) provide that tariff rules relating to the transportation of restricted articles shall be in conformity with Part 103 of the Federal Aviation Regulations. DOT/FAA having thus preempted this area of regulations, no basis remains to conclude that carriers are free to pick and choose their traffic. It is clear that Congress intended any carrier's refusal to transport property for safety reasons to be subject to reasonable rules and regulations prescribed by the Secretary.

Consistent with the above, the Board hereby reaffirms its previous action, which was stayed by Court order, and will herein make such action final, with respect to:

(1) The rejection of the notices of embargo as more fully set forth in Ordering Paragraph 1 of Order 75–2–127 and Ordering Paragraph 1(A) of Order 75–4–75;

(2) Order 75–4–75 denying a petition filed by ALPA for reconsideration of Order 75–2–127 rejecting notices of embargo filed by Alaska, Allegheny, Eastern, Frontier, Hawaiian, Ozark, Piedmont, TWA, and Western; and

(3) The denial of applications to extend notices of embargo as more fully set forth in Ordering Paragraphs 1(B) and 1(C) of Order 75–4–75.

Turning now to the tariffs that were ordered rejected by the Board, subject to a stay of the effective date of such orders pending final court action,[4] the Board concludes that for technical reasons, it will not make such rejections effective,[5] but will order such tariffs reissued to cancel those provisions that are inconsistent with the regulations not later than 15 days after service of this order.

The Board also notes the existence of other tariff provisions by certain air carriers prohibiting the acceptance of Etiologic Agents, Corrosive Material, Metallic Mercury, and all Poison B labeled articles that are inconsistent with Part 103 of DOT Regulations. The Board therefore concludes that it will direct those certificated air carriers that currently maintain such restrictions to reissue their tariffs to cancel those restrictions that would otherwise preclude the acceptance of Etiologic Agents, Corrosive Material, Metallic Mercury, and all Poison B labeled articles.

United has filed a petition for reconsideration in Docket 27545 requesting the Board to reconsider Order 75–4–75, insofar as that order purported to reject United's effective tariff. The Board will deny United's petition as being moot, in view of the fact that United has now amended its tariff to comply with the requirements of the Transportation Safety Act of 1974 and the regulations promulgated pursuant thereto by DOT.

Unlike United, some carriers now maintain exceptions relating to the acceptance of Radioactive Materials, and other carriers maintain tariffs in conformity with DOT Regulations that were in effect prior to the adoption by DOT of Notice 75–2 pursuant to the Transportation Safety Act of 1974. The Board is herein directing these carriers to promptly bring their tariffs into conformity with DOT Regulations.

COSTHA petitioned the Board in Docket 27148 for reconsideration of Orders 74–11–74 and 74–12–121. Our action herein requiring the certificated air carriers to accept Poison B labeled articles will therefore make COSTHA's petition moot. We will also deny COSTHA's petition for reconsideration for the same reason.

The complaints of DOT in Dockets 27488 and 27520 requesting enforcement action will be dismissed. Enforcement action does not appear necessary or appropriate at this point in time, in view of the extensive government-wide review of the entire regulations pertaining to the carriage of Hazardous Materials. Further, our action in this order should make further proceedings unnecessary.

COSTHA has also filed complaints requesting rejection of those tariff provisions filed by Airline Tariff Publishing Company, Agent, in Tariff C.A.B. No. 82 on behalf of the air carriers, that implement the proposed DOT Regulation pertaining to the transportation of Flammable Liquids, promulgated under DOT Docket No. HM–102.[6] Subsequently COSTHA has filed a Motion for Expedited Consideration upon its complaint in Docket 27956. The main thrust of COSTHA's complaints is that the carriers have made the proposed regulations effective earlier than the proposed DOT mandatory effective date of Janu-

[4] See Orders 75–4–75, and 75–5–81, dated May 21, 1975, which rejected embargoes and tariff provisions refusing certain Hazardous Materials.

[4] See Ordering Paragraph 1(D) of Order 75–4–75 and Ordering Paragraph 1 of Order 75–5–81.

[5] We note, that the provisions of Allegheny's tariff rejected by Order 75–3–13 but stayed by court order have been voluntarily withdrawn. Therefore, we will dismiss as moot the complaint of COSTHA in Docket 27527.

[6] COSTHA also filed a motion for leave to file an otherwise unauthorized document in Docket 27956. We will grant COSTHA's motion and will accept such document.

ary 1, 1976. COSTHA also alleges, inter alia, that the earlier effective date creates an undue burden on the shippers to comply with the new regulations, and additionally adds unnecessary costs to the shipper to comply with the new regulations, and further, that the proposed tariffs conflict with the current DOT Regulations and should therefore be rejected.

The Air Transport Association of America (ATA) has filed answers on behalf of the air carriers to both of COSTHA's complaints. ATA states in its answer that there can be no conflict between the proposed tariffs and the existing DOT Regulations, since the new DOT Regulations permit voluntary compliance by the carriers at any time before the mandatory effective date of January 1, 1976.

The Board will dismiss the complaints of COSTHA in Dockets 27956 and 28180, including its motion for expedited consideration. The Board notes that it has previously addressed this issue in Order 75–3–13, rejecting tariff provisions of Allegheny, wherein we stated that:

* * * we shall reject Allegheny's proposal without prejudice to the carrier's refiling tariff provisions reflecting FAA's proposed rules. The Board will also expect other carriers that currently have in effect tariffs refusing to accept Poison B materials will promptly conform their tariffs to the proposed FAA Regulations * * *

We note, however, that the carriers have not implemented in their tariff the proposed revisions to the DOT Docket HM–102 regulations issued by DOT/FAA on May 16, 1975.

Notwithstanding our policy permitting the carriers to implement proposed regulations of DOT/FAA in their tariffs, we fully expect that where DOT/FAA subsequently issues revisions that either withdraw restrictions, such as in the case of alcoholic beverages in DOT/FAA Docket HM–102, or are more permissive in application, the carriers should promptly amend their tariffs to reflect such changes.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly Sections 204(a), 401, 403, 404, and 1002, and the provisions of Part 221 of the Board's Economic Regulations (14 CFR 221),

It is ordered, that: 1. The rejection by the Board of the notices of embargo in Order 75–2–127 and Order 75–4–75 are hereby reaffirmed and are made effective with the date of service of this order;

2. The rejection by the Board of tariffs as set forth in Ordering Paragraph 1(D) of Order 75–4–75 and Ordering Paragraph 1 of Order 75–5–81 are hereby rescinded, subject to Ordering Paragraphs 5(e) and 5(a), respectively, below;

3. The applications for authority to extend embargoes filed by Alaskan Airlines, Inc. in Docket 27554, Allegheny Airlines, Inc. in Docket 27494, American Airlines, Inc. in Docket 27537, Delta Air Lines, Inc. in Docket 27428, Eastern Air Lines, Inc. in Docket 27495, Frontier Airlines, Inc. in Docket 27519, Hawaiian Airlines, Inc. in Docket 27549, Hughes Air Corp. d/b/a Hughes Airwest in Docket 27546, Ozark Air Lines, Inc. in Docket 27560, Piedmont Aviation, Inc. in Docket 27509, United Air Lines, Inc. in Docket 27545, and Western Air Lines, Inc. in Docket 27518 previously denied by the Board in Ordering Paragraphs 1(B) and 1(C) of Order 75–4–75 but stayed by the Board are hereby reaffirmed and are hereby denied, effective with the date of service of this order;

4. Order 75–4–75 denying the petition for reconsideration of Order 75–2–127 filed by the Air Line Pilots Association, International in Docket 27588, is hereby reaffirmed and is made effective with the date of service of this order;

5. Effective 15 days after service of this order, the following U.S. certificated air carriers are hereby directed to make the following changes by revisions to their tariffs on 30 days' notice, as indicated:

a. Trans World Airlines, Inc. is hereby directed to cancel its Exception to Rule 9(c), which provides for the nonacceptance of restricted articles on cargo aircraft if those articles are not acceptable on passenger aircraft, in Official Air Transport Restricted Articles Tariff No. 6–D, C.A.B. No. 82, issued by Airline Tariff Publishing Company, Agent, (hereinafter refererd to as C.A.B. No. 82);

b. American Airlines, Inc.; Braniff Airways, Inc.; Continental Air Lines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; The Flying Tiger Line, Inc.; Frontier Airlines, Inc.; National Airlines, Inc.; North Central Airlines, Inc.; Northwest Airlines, Inc.; Ozark Air Lines, Inc.; Piedmont Aviation, Inc.; Texas International Airlines, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; and Western Air Lines, Inc., are hereby directed to cancel their restrictions appearing in Section V of C.A.B. No. 82, which would otherwise preclude the transportation or unlawfully condition the acceptance of Poison B labeled articles;

c. Allegheny Airlines, Inc., Ozark Air Lines, Inc., and Piedmont Aviation, Inc. are hereby directed to cancel their restrictions appearing in Section V of C.A.B. No. 82, which would otherwise preclude the transportation or unlawfully condition the acceptance of certain Corrosive Materials;

d. Frontier Airlines, Inc.; Northwest Airlines, Inc.; and Piedmont Aviation, Inc. are hereby directed to cancel their restrictions appearing in Section V of C.A.B. No. 82, which would otherwise preclude the transportation or unlawfully condition the acceptance of Etiologic Agents;

e. American Airlines, Inc.; Continental Air Lines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; Hughes Air Corp. d/b/a Hughes Airwest; National Airlines, Inc.; and Trans World Airlines, Inc. are hereby directed to cancel their current provisions appearing in Section V of C.A.B. No. 82, relating to the acceptance and transportation of Radioactive Materials to comport with the requirements of the Transportation Safety Act of 1974 and the regulations promulgated pursuant thereto by the Department of Transportation;

f. Pan American World Airways, Inc. is hereby directed to cancel its restriction appearing in Section V of C.A.B. No. 82, which would otherwise preclude the transportation or unlawfully condition the acceptance of Radioactive Materials; and

g. Northwest Airlines, Inc. is hereby directed to cancel its restrictions appearing in Section V of C.A.M. No. 82, which would otherwise preclude the transportation or unlawfully condition the acceptance of Metallic Mercury.

6. Except to the extent granted herein, the complaints of the Department of Transportation in Dockets 27521 and 27655, the American Medical Association in Docket 27380, the American College of Radiology in Docket 27382, Mr. William A. Brobst, Chief, Transportation Branch, Division of Waste Management and Transportation, Atomic Energy Commission in Docket 27090, and the Council for Safe Transportation of Hazardous Articles in Dockets 27148, 27527, and 27806, are dismissed;

7. Except to the extent granted herein, the complaints of the Council for Safe Transportation of Hazardous Articles in Dockets 27956 and 28180 are dismissed;

8. Except to the extent granted herein, the motion of the Council for Safe Transportation of Hazardous Articles for expedited consideration in Docket 27956 is denied;

9. Except to the extent granted herein, United Air Lines, Inc.'s petition for reconsideration in Docket 27545 is hereby denied;

10. Action upon the complaints of the Department of Transportation in Dockets 27488 and 27520 with respect to the request for enforcement action, and, except to the extent granted herein, the requests for prospective rejection of both tariffs and embargoes are dismissed;

11. Copies of this order shall be served upon the Department of Transportation, the American Medical Association, the American College of Radiology, Mr. William A. Brobst, Chief, Transportation Branch, Division of Waste Management and Transportation, the Atomic Energy Commission, the Air Line Pilots Association, International, and the Council for Safe Transportation of Hazardous Articles, and upon all the U.S. certificated carriers named in Appendix A.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX A

Alaska Airlines, Inc.; Allegheny Airlines, Inc.; American Airlines, Inc.; Braniff Airways, Inc.; Continental Air Lines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; The Flying Tiger Line Inc.; Frontier Airlines, Inc.; Hawaiian Airlines, Inc.; Hughes Air Corp., d/b/a Hughes Airwest; National Airlines, Inc.; North Central Airlines, Inc.; Northwest

Airlines, Inc.; Ozark Air Lines, Inc.; Pan American World Airways, Inc.; Piedmont Aviation, Inc.; Texas International Airlines, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; Western Air Lines, Inc.

[FR Doc.75-30768 Filed 11-13-75;8:45 am]

[Dockets 26494, 27573; Agreements C.A.B. 25477, 25479 R-1 through R-6; 25478 R-1 through R-3; Order 75-11-30]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Agreements on Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of November, 1975.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted either by mail vote or at the 1975 Composite Passenger Traffic Conference at Nice, have been assigned the above C.A.B. agreement numbers.

The agreements propose a 5 percent currency-related discount for passenger air transportation originating in Norway to U.S./Canadian/Mexican points over the North Atlantic, effective November 1, 1975, as well as varying percentage surcharges for passenger and cargo air transportation originating in India to various world areas. Insofar as the latter directly affects air transportation as defined by the Act, it would apply a 15 percent surcharge on cargo rates from India to American Samoa/Guam and a 10 percent surcharge on rates on U.S. points over the North/Central Pacific, effective December 1, 1975.[1] With respect to passenger fares from India, the agreements would apply a 16 percent surcharge on fares to American Samoa/Guam and an 11 percent surcharge on fares to U.S. points over the North and Mid-Atlantic, effective December 1, 1975, and a 10 percent surcharge on fares to U.S. points over the North/Central Pacific, effective November 1, 1975.

Fares and rates from Norway and India are presently established by conversion from specified basic currency fares/rates at the IATA exchange rates published in Resolution 021b. The U.S. dollar is the basic currency for the specification of international air transportation over the Atlantic and Pacific and within the Western Hemisphere. Elsewhere the basic currency is the pound sterling. At present, the IATA 021b rate for the Norwegian currency is 6.64539 krone=$1.00 whereas the current market rate is about 5.43478 krone=$1.00. Similarly, the IATA exchange rate for Indian currency is 7.27931 rupees=$1.00 and the current market rate about 8.69565 rupees=$1.00.[2] Thus, the subject agreements serve to bring fares and/or rates from the countries affected into much closer alignment with current exchange rates and will be approved consistent with our earlier actions approving discounts from strong-currency European countries and surcharges from weaker-currency countries.

Pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a) and 412 thereof, the Board does not find that the following resolutions, incorporated in the agreements indicated and which have either direct or indirect application in air transportation, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
25477	022z	JT12 (North Atlantic) special rules for sales of passenger air transportation from TC2 to TC1 (expedited) (amending).	1/2

Agreement C.A.B. 25478	*IATA Resolution*
R-1	300 (Mail 463) 022a
R-2	JT23 (Mail 374) 022b, JT123 (Mail 760) 022b
R-3	JT31 (Mail 299) 022p, JT123 (Mail 769) 022p

Agreement C.A.B. 25479	*IATA Resolution*
R-1	300 (Mail 462) 022e
R-2	JT23 (Mail 373) 022f, JT123 (Mail 768) 022f
R-3	JT31 (Mail 298) 022g
R-4	JT12 (Mail 880) 022h, JT123 (Mail 768) 022h
R-5	JT12 (Mail 880) 022i, JT123 (Mail 768) 022i
R-6	JT12 (Mail 880) 022n, JT123 (Mail 768) 022n

Accordingly, IT IS ORDERED THAT:

Agreements C.A.B. 25477; C.A.B. 25478, R-1 through R-3; and C.A.B. 25479, R-1 through R-6, be and hereby are approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-30767 Filed 11-13-75;8:45 am]

OZARK AIR LINES, INC.

Notice of Application for Amendment of Certificate of Public Convenience and Necessity

NOVEMBER 10, 1975.

Notice is hereby given that the Civil Aeronautics Board on November 10, 1975, received an application, Docket 28475, from Ozark Air Lines, Inc. for amendment of its certificate of public convenience and necessity for route 107 to provide St. Louis-Kansas City nonstop service.

The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-30766 Filed 11-13-75;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1975

Additions

Notice of proposed additions to Procurement List 1975, November 12, 1974 (39 F.R. 39964) were published in the FEDERAL REGISTER on June 27, 1975 (40 F.R. 27289), and July 11, 1975 (40 F.R. 29333).

Pursuant to the above notices the following commodities are added to the Procurement List:

Class 8465:	*Price (each)*
Bag, laundry (SH):	
8465-00-616-9576 G.F.M.	$3.23
8465-00-616-9576 C.F.M.	5.74
Belt, individual equipment, Nylon LC-1 (IB):	
8465-00-001-6483	2.85
8465-00-001-6487	3.04

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.75-30762 Filed 11-13-75;8:45 am]

PROCUREMENT LIST 1975

Deletion

Notice of proposed deletion from Procurement List 1975, November 12, 1974 (39 F.R. 39964) was published in the FEDERAL REGISTER on September 19, 1975 (40 F.R. 43269).

Pursuant to the above notice the following commodities are deleted from the Procurement List.

CLASS 8465

Suspenders, Field Pack, Cotton (IB)

8465-00-577-4922
8465-00-577-4923
8465-00-823-7231

By the Committee.

C. W. FLETCHER
Executive Director.

[FR Doc.75-30763 Filed 11-13-75;8:45 am]

PROCUREMENT LIST 1975

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed addition of the

[1] The surcharges on cargo rates from India would be increased an additional 5 percent on April 1, 1976.

[2] For pound-specified fares/rates from India, the IATA exchange rate is 18.9677 rupees=1 U.K. pound and present market rates about 17.97826 rupees=1 U.K. pound.

following commodities and services to Procurement List 1975, November 12, 1974 (39 FR 39964).

CLASS 5510

Wood Wedges
5510-00-640-9237

CLASS 8020

Paint Roller, with Cover
8020-00-753-4914
8020-00-753-4915

CLASS 8465

Strap, Webbing, Cargo Tie Down
8465-00-001-6477

MILITARY RESALE ITEMS

Woven Place Mats
Molded Vinyl Place Mats

INDUSTRIAL CLASS 7331

Mailing Services at following locations:
Housing and Urban Development, Washington, D.C.
Federal Elections Commission, Washington, D.C.
Department of Commerce, Washington, D.C.
ACTION, Washington, D.C.
Department of Labor, Manpower Administration, Washington, D.C.
Department of Labor, 200 Constitution Avenue, Washington, D.C.
Department of Labor, President's Committee on Employment of the Handicapped, Washington, D.C.
Library of Congress, Washington, D.C.
General Services Administration, National Archives and Records Service, National Audiovisual Center, Suitland, Maryland.
General Services Administration, National Archives and Records Service, 7th and Pennsylvania Avenue, Washington, D.C.

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 from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.75-30761 Filed 11-13-75;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

ADVISORY COMMITTEE ON DEFINITION AND REGULATION OF MARKET INSTRUMENTS

Meeting

Notice is hereby given of a change in the location of the meeting for the Commodity Futures Trading Commission Advisory Committee on Definition and Regulation of Market Instruments.

The Committee will meet on November 19, 1975 at 10:00 a.m. in the Longworth House Office Building, Washington, D.C., Room 1301, rather than at 1120 Connecticut Avenue NW., Washington, D.C., Room 925, as previously stated in the FEDERAL REGISTER of October 30, 1975 (40 F.R. 50558).

Dated: November 11, 1975.

WILLIAM T. BAGLEY,
Chairman,
Commodity Futures
Trading Commission.

[FR Doc.75-30752 Filed 11-13-75;8:45 am]

ADVISORY COMMITTEE ON THE ECONOMIC ROLE OF CONTRACT MARKETS

Tentative Schedule of Meetings

On October 30, 1975, the Commodity Futures Commission Advisory Committee on the Economic Role of Contract Markets conducted its first public meeting in Washington, D.C. At that meeting, the Committee discussed the economic purpose of futures markets, the regulatory approach of the Commission, and speculative limits. In addition, the Committee approved a tentative schedule of additional meetings.

Pursuant to Section 10(a) of the Federal Advisory Committee Act, U.S.C. App. I, § 10(a), notice is hereby given that the Commodity Futures Trading Commission Advisory Committee on the Economic Role of Contract Markets has approved the following tentative schedule of public meetings:

Location	Date, Thursday—	Program
2d meeting, Washington, D.C.	Dec. 4	Finish speculative limits, begin hedging, and international arbitrage.
3d meeting, New York, N.Y.	Jan. 29	Complete hedging consideration.
4th meeting, Chicago, Ill.	Mar. 11	Economic standards for contract evaluation, proliferation, and delivery points.
5th Meeting, Washington, D.C.	Apr. 1	Data and information responsibility, daily price limits, other pending matters.
6th meeting (if needed), Washington, D.C.	Apr. 22	Review final report.

In the event the Committee does not complete its consideration of the items of the agenda of a particular meeting, the meeting may be continued on the following day or until the agenda is completed.

The meetings will be open to the public. The Chairman of the Committee is empowered to conduct meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to The Advisory Committee on the Economic Role of Contract Markets, Commodity Futures Trading Commission, 1120 Connecticut Avenue, NW., Washington, D.C., 20036, at least five days before the appropriate meeting. Members of the public that wish to make oral statements at a Committee meeting should inform Margaret Harrison, telephone (202) 254-8955, at least five days before that meeting, and reasonable provision will be made for their appearance on the agenda.

The Commission is maintaining a list of persons interested in the operations of this Advisory Committee and will mail notice of the meetings to those persons. Interested persons may have their names placed on this list by writing DeVan L. Shumway, Director, Office of Public Information, Commodity Futures Trading Commission, 1120 Connecticut Avenue, NW., Washington, D.C., 20036.

Dated: November 10, 1975.

GARY L. SEEVERS,
Commissioner, Commodity Futures
Trading Commission.

[FR Doc.75-30753 Filed 11-13-75;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental Quality from November 3 through November 7, 1975. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (December 29, 1975) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fowden G. Maxwell, Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-3965.

Final

Black Pine Planning Unit, Sawtooth National Forest, Cassia County, Idaho, November 6: The proposed land use plan for the Black Pine Planning Unit, Sawtooth National Forest, closely parallels present management with these major changes: harvesting of six million board feet of sawtimber, partial development of the 51,566-acre roadless area, prescribed burning on 7,000-10,000 acres to thin juniper trees and increase livestock forage, and provide for an increase in winter forage for deer. Unavoidable adverse effects include reduction of both juniper- and sagebrush-dependent species and increased harvesting of deer during hunting season (due to improved access). Comments made by: AHP, EPA, DOI, HUD, HEW, USDA, and State and local agencies and individuals. (ELR Order No. 51619.)

AGRICULTURAL STAB. AND CONSERV. SERVICE

Draft

Agricultural Conservation Program, November 5: Under the Agricultural Conservation Program, the Federal Government will be sharing with farmers and ranchers the

cost of carrying out approved soil, water, woodland, and wildlife conservation practices on their land, throughout the States, Puerto Rico, and the Virgin Islands, construction of water impoundment facilities, terraces, and diversions, the establishment of vegetative cover and trees, and the carrying out of streambank protection measures. Some adverse impacts may occur if herbicides are not properly applied or if there is improper application of plant nutrients. (ELR Order No. 51615.)

FOREST SERVICE

Draft

Alaska Lumber & Pulp Co., Timber Sale, Alaska, November 6: The statement concerns the harvesting of approximately 658 million board feet of mature Sitka spruce, western hemlock, and Alaska cedar by the Alaska Lumber and Pulp Company during the operating period 1976–1981. The proposed action will modify 267,400 acres of Tongass National Forest to the degree that it will no longer qualify for consideration for inclusion into the Wilderness Preservation System. Areas where permanent roads, quarries, camps, and log landings are constructed will be removed from timber production for an indefinite time. (ELR Order No. 51618.)

Big Swede-Pipe Units, Kootenai National Forest, Lincoln County, Mont., November 6: The action involves the implementation of a revised multiple use plan for the 142,135 acre Big Swede-Pipe Planning Unit of Kootenai National Forest. The plan provides for fewer acres to be allotted to timber production, but an increase in long term yields through more intensive management of these acres allocated to production of wood products. Continued developmental activity will result in soil and vegetative disturbance. Areas which are currently unroaded will be developed and the natural condition of the Forest will be affected. (ELR Order No. 51623.)

Final

Herbicide Use, Ozark-St. Francis National Forest, several counties in Arkansas, November 6: The statement describes vegetation management and control in the Ozark-St. Francis National Forests through the use of herbicides 2,4-D, 2,3,5-T, silvex and picloram. Adverse impacts include decreased aesthetic value due to loss of some foliage and flowering species, noise and smell during spraying, and temporary lowered air and water quality during and after spraying. Comments made by: COE, EPA, DOI, and State agencies, private groups and individuals. (ELR Order No. 51624.)

Marble Winter Sports Site, White River National Forest, Gunnison County, Colo., November 4: The proposal is not to issue a special use permit pursuant to the application of the Marble Ski Area, Inc., to expand their eixsting facilities onto 600 acres of the White River National Forest within Gunnison County, Colorado. This action would permit local government to reassess current zoning and land ownership. Comments made by: DOI, EPA, and State and local agencies, private organizations and individuals. (ELR Order No. 51609.)

Timberline Lodge Complex, Mt. Hood National Forest, Clackamas County, Oreg., November 4: Proposed is the establishment of long-term management for the Timberline Lodge complex, in order to preserve the Lodge and make it available for public use and enjoyment. The proposed action focuses on the historic and established use patterns at Timberline Lodge, and includes the construction of a day lodge, a retaining wall and 2 chairlifts. Landscaping and remodeling of the Lodge itself are also included in the project. Comments made by: AHP, EPA, DOT, HUD, DOI, USDA, and State and local agencies. (ELR Order No. 51613.)

Wallowa Valley Unit Resource Allocation, Wallowa, Baker, and Union Counties, Oreg, November 6: The proposed resource allocation differs from present management of the Wallowa Valley Planning Unit, Wallowa-Whitman National Forest in that while maintaining commodity levels, certain areas are designated for special non-game wildlife needs and recreation value are given special emphasis. Adverse effects include the loss of 35% of timber production and grazing potential, contamination of streams and lakes by cattle and elk, soil disturbance and changes in vegetation due to timber harvesting, and possible adverse impacts on numerous wildlife species. Comments made by: USN, EPA, DOI, DOC, USA, and State and local agencies. (ELR Order No. 51622.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202–693–6795.

Draft

Calleguas Creek, Ventura County, Calif. November 3: Proposed in this revised draft is the adoption of a program incorporating construction of two flood control channels, flood plain management, and park and trail development for Calleguas Creek, Ventura Co., Calif. Adverse effects include loss of 12 acres of riparian wildlife habitat and urbanization of 185 acres of open space and agricultural land within the Simi Valley and Moorpark flood plain. (ELR Order No. 51607.)

Clinton River Channel, Maintenance Dredging, several counties in Michigan, November 6: Proposed is the continuation of maintenance dredging for the Clinton River, Michigan, Federal Navigation Channel. Increased water turbidity in the area of operation will result, and aquatic life in the dredging areas will be disturbed or destroyed. Disposal of dredged sediments will alter habitats and may otherwise adversely affect organisms at the disposal area. (Detroit District.) (ELR Order No. 51617.)

Cape Fear R.: Maintenance Above Wilmington, several counties in North Carolina, November 6: Proposed is the continued maintenance of the existing navigation program from Wilmington to Fayetteville, N.C. Maintenance consists of removal of shoals from the waterway and operation of the 3 locks and dams. Removal of shoals and disposal of dredged material has adverse effects on the water and associated life forms. (Wilmington District.) (ELR Order No. 51625.)

Chagrin River Flood Control and Navigation (3), Lake County, Ohio, November 3: The statement is the second revision of a draft filed with CEQ 19 December 1972. Proposed is a plan of improvement for Eastlake, Chagrin River, Ohio which would reduce flood damages within the Chagrin River Basin, provide safer river and harbor navigation, and provide increased recreational fishing opportunity and access at Eastlake. Approximately 6.6 acres of terrestrial vegetation will be destroyed by constfuction and about 6.4 acres of lake bottom will be lost. (Buffalo District.) (ELR Order No. 51606.)

Arcadia Lake and Deep Fork River, Tulsa County, Okla., November 6: Proposed is the construction of a multi-purpose lake on the Deep Fork River 1½ miles west of Arcadia, Oklahoma, and 6 miles east of Edmond. The project will require the acquisition of 4,200 acres in agricultural lands and 2,800 acres of rural homesite lands. Necessary relocations would include highways, railroads, and utilities in the areas, as well as an estimated 50 graves and 45 families. A small independent school district would be adversely affected. (Tulsa District.) (ELR Order No. 51620.)

Ft. Howard Paper Co., Pulp and Paper Mill, Muskogee County, Okla., November 6: Proposed is the construction on and in the Arkansas River, in the area of Muskogee Co., Oklahoma, of a barge loading dock and intake and outlet facilities for a process water system which are directly related to the recycled-deinked pulp and paper mill. Adverse effects include destruction or modification of existing ground cover and significant impact on wildlife habitat. Water intake would adversely affect plankton, fish, fish eggs, and larvae carried into the system. (Tulsa District.) (ELR Order No. 51621.)

Fort Hood Land Acquisition, Coryell County, Tex., November 7: The proposed action is to acquire 59,300 acres of land adjacent to the west boundary of the Fort Hood Military Reservation. The purpose of this action is to provide Fort Hood with adequate land area to permit realistic modern-day battlefield conditions for training. About 156 families will be relocated, and the town of Pidcoke will be removed and the life-styles of families who will be relocated outside the area will be disrupted. (Fort Worth District.) (ELR Order No. 51627.)

NAVY

Contact: Mr. Peter M. McDavitt, Special Assistant to the Assistant Secretary of the Navy (Installations and Logistics), Washington, D.C. 20350, 202–692–3227.

Final

ORV Recreation, Naval Weapons Center, China Lake, Calif., November 3: The statement refers to the establishment of an off-road vehicle recreation area at the Naval Weapons Center, China Lake, California. Three sites are under consideration for this purpose and would require, respectively, 920, 620, or 180 acres of land. Higher noise levels during the daylight hours will result, as well as slightly higher dust levels in the recreation area. Comments made by: EPA, DOI, 2AHP2, and State and local agencies, private organizations and individuals. (ELR Order No. 51601.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, 202–343–4161.

Draft

Federal Bldg.—US Courthouse, E. St. Louis, Madison and St. Clair Counties, Ill., November 4: The proposed action is the construction of a Federal Building—US Courthouse and Parking Facility in East St. Louis, Illinois. The building will accommodate approximately 125 employees when fully staffed. Construction disruption will result. (ELR Order No. 51610.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410, 202–755–6308.

Draft

Pier Point Development, Arapahoe County, Colo., November 3: Proposed is the approval

of FHA mortgage insurance for the construction of Pier Point, a Planned Development, in Aurora, Colorado. The complex would contain 834 units of multifamily and single family attached housing. Construction of Pier Point would result in significant disruption of the existing plant and animal communities on the site, an increase in the load on the Aurora and Denver area infrastructure, and an increase in automobile generated pollutants. (ELR Order No. 51603.)

Final

"The Woods" Subdivision, Dallas County, Tex., November 4: The statement concerns HUD administrative approval of the construction of a predominantly residential subdivision, "The Woods" by Fox and Jacobs, Inc. as an "FHA" processed housing development. The project will convert, 1,800 acres of agricultural land in Southwest Dallas County to a community containing 5,400 dwelling units. The development will spur suburban growth. The proposed development would create greater demand for fossil fuels and would permanently remove agricultural land from potential production. Comments made by: AHP, USDA, COE, DOI, EPA, DOT, DOC, and State agencies, individuals, and private organizations. (ELR Order No. 51608.)

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 SPORTS FISHERIES AND WILDLIFE

Final

Proposed Lacassine National Wildlife Refuge, Cameron County, La., November 4: Proposed is the legislative designation of 2,854 acres of the Lacassine Wildlife Refuge as wilderness within the National Wilderness Preservation System. The major impact of the proposal would be the removal of some future management options (31 pages). Comments made by: DOT, DOD, DOI, and one state agency. (ELR Order No. 51612.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. A. Giambusso, Director of Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, 301-492-7373.

Draft

Monague Nuclear Power Station, Units 1 and 2, Franklin County, Mass., November 6: The proposed action is the issuance of construction permits to the Northeast Nuclear Energy Company for the construction of the Montague Nuclear Power Station, Units 1 and 2, located on the Connecticut River in the Town of Montague. The plant will employ two boiling-water reactors to produce up to 3579 megawatts thermal each and 1150 MWe each. A design power level of 3759 MWt and 1220 MWe for each unit is anticipated. Construction will require the disturbance of 200 acres of the 1900 acre site. Cooling water will be drawn from and discharged to the Connecticut R. Approximately 118 miles of transmission lines will be constructed. (ELR Order No. 51626.)

Final

Davis-Besse Nuclear Power Station, Unit 1 Operation, Ottawa County, Ohio, November 5: The proposed action is the issuance of an operating license to the Toledo Edison Company and the Cleveland Electric Illuminating Company for the startup and operation of the Davis-Besse Nuclear Power Station Unit 1. The station will have a capacity to produce 2772 MWt and 906 MWe. The cooling tower blowdown and service water which the station discharges to Lake Erie, via a submerged jet, will be heated as much as 20 degrees above ambiant. Approximately 3345 curies per year of gaseous radioactive wastes may be discharged into the atmosphere. Comments made by: DOC, ERDA, HEW, DOI, EPA, and State agencies, local groups and individuals. (ELR Order No. 51616.)

DEPARTMENT OF TRANSPORTATION

Contact. Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Reedley Municipal Airport, Fresno and Tulane Counties, Calif., November 3: The proposed action includes the establishment of a new municipal airport on a site now partially occupied by the Great Western Airport. It is proposed to develop a Basic Utility Airport—Stage 1, primarily intended to serve as a low-activity, rural facility for small piston aircraft. Adverse impacts include the decrease of existing vegetation on the project site. The recommended site also has the disadvantage of being adjacent to the Great Western Elementary School. (ELR Order No. 51604.)

Final

Mason County Airport, Ludington, Mason County, Mich., November 4: The statement refers to the proposed development of the Mason County Airport in Ludington. The project consists of land acquisition for runway extension and clear zone, surfacing of a runway and taxiway, installation of a two-box visual approach slope indicator (VASI) on each end of Runway 7-25, and construction and installation of lighting on a northeasterly extension of Runway 7-25. Adverse impacts are road closures, loss of wildlife habitat and increases in air and noise pollution (62 pages). Comments made by: USPS, USDA, HUD, EPA, DOI, DOT, COE, AHP, and State and local agencies and private individuals. (ELR Order No. 51611.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Indiana Project I-164, Vanderburgh County, Ind., November 4: Proposed is the construction of Interstate Highway 164 Spur near Evansville from Interstate Highway 64 on the north to a point approximately 14.3 miles south in the vicinity of SR 62 on the west on Newburgh Road on the east, Vanderburgh County, Indiana. Some destruction of wildlife and alteration of wildlife patterns will result, and the taking of cropland and pastureland for right-of-way is unavoidable. There will be some displacement of businesses and families. Eight alternatives to the proposed plan are being considered. (ELR Order No. 51614.)

Metropolitan Highway 50, Fort Worth, Tarrant County, Tex., November 3: The proposed action is the Metropolitan Highway 50 Special Urban High Density Traffic Project, a limited access Freeway Spur in the City of Fort Worth with three lanes in each direction and a length of approximately 1.3 miles. Negative effects include the displacement of 73 families and 18 businesses. (ELR Order No. 51605.)

Final

SR 10A, Pensacola, Escambia County, Fla., November 3: Proposed is the new construction of a 5-lane curb and gutter municipal section along an alignment in Pensacola for approximately 4.3 miles. The general alignment of this proposal flows through a system of unpaved roads known as the Old Spanish Trail, and will require about 55 acres of land. Adverse impacts include water pollution within nearby Escambia Bay, removal of land from a natural state and promotion of development, and the expansion of urbanism in the Pensacola area. Comments made by: HEW, DOI, EPA, DOT, and State and local agencies. (ELR Order No. 51602.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.75-30942 Filed 11-13-75;8:45 am]

COUNCIL ON WAGE AND PRICE STABILITY

STEEL PRICE STUDY

Notice of Public Symposium

On October 3, 1975 (40 FR 45867) a notice was issued inviting written comments concerning *A Study of Steel Prices*, a study prepared by the staff of the Council on Wage and Price Stability, and announcing a public symposium to discuss the report and the comments received.

This notice invites interested members of the public to participate in this symposium. A discussion paper summarizing the public comments received, to be prepared by Paul Marshall of the Harvard Graduate School of Business Administration, will be distributed in advance to symposium participants.

The symposium will be held on Tuesday, December 16, 1975, in Room 2010, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C., beginning at 9:30 a.m.

Several prominent experts from the industrial, financial and academic communities as well as Government agencies are being invited to participate. Other persons interested in participating should notify the Council in writing within ten days from the date of this notice. Responses should be addressed to:

Morris Feibusch, Assistant Director for Public Affairs and Congressional Relations, Council on Wage and Price Stability, 726 Jackson Place, NW., Washington, D.C., Phone: 456-6757.

Those responding will be contacted subsequently concerning further details of the symposium.

Persons interested in observing, but not participating, should contact Assistant Director Feibusch by Friday, December 12 to arrange for building clearance.

MICHAEL H. MOSKOW,
Director.

[FR Doc.75-30921 Filed 11-13-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 456-3]

ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Availability of Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section

309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendicies during the period of September 16, 1975 and September 30, 1975.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV and V.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone AC 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: November 5, 1975.

REBECCA W. HANMER,
Acting Director,
Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statements for which comments were issued between Sept. 16, 1975, and Sept. 30, 1975*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Agriculture:			
DS-AFS-A43402-AZ	Clarksdale-Williams highway proposal, Arizona	LO-1	J
D-AFS-G65009-AR	Ozone unit plan, Ozark and St. Francis National Forest, Johnson County, Ark.	LO-1	G
D-AFS-L61038-WA	River classification of the Skagit River under the Wild and Scenic Rivers Act, Washington.	LO-1	K
D-AFS-L61043-ID	Land use plan, Smith Creek Planning Unit, Kaniksu National Forest, Boundary County, Idaho.	LO-1	K
D-SCS-E36029-KY	Big Muddy Creek watershed, Butler and Logan Counties, Ky.	LO-2	E
Corps of Engineers:			
DS-COE-A32488-OO	Lock and Dam No. 26, Mississippi River, Mo. and Ill.	ER-2	H
DS-COE-D36004-VA	Flood protection measures at Richmond, Va.	LO-2	D
D-COE-E02001-AL	Permit application, Mobile Oil Corp. exploratory oil well, Mobile Bay, Ala.	LO-1	E
D-COE-E02002-AL	Dredging permit application, Chevron Oil Co., Baldwin County, Ala.	LO-2	E
D-COE-E32009-GA	Brunswick Harbor improvement, Glynn County, Ga.	ER-2	E
D-COE-E60001-TN	Cordell Hull Dam and Reservoir, disposal, Cumberland River, Jackson County, Tenn.	LO-2	E
D-COE-H34011-KS	Operation and Maintenance, Pomona Lake, Kans.	LO-1	H
D-COE-K34001-CA	Port of Redwood City levee project, regulatory permit, San Mateo County, Calif.	ER-2	J
D-COE-L32001-WA	Willapa River and Harbor navigation project, Washington.	ER-1	K
Energy Research Development Administration:			
D-ERD-A00110-OO	Expansion of U.S. uranium enrichment capacity	LO-2	A
Federal Energy Administration:			
RD-FEA-A02076-OO	Mandatory oil import program	ER-2	A
Federal Power Commission:			
DS-FPC-C03001-NJ	Construction and operation of a LNG import terminal, Raccoon Island, Gloucester County, N.J.	ER-2	C
Department of Defense:			
D-USA-G11001-NM	White Sands missile range, White Sands National Monument, N. Mex.	LO-1	G
Department of Housing and Urban Development:			
D-HUD-D89014-MD	Inner harbor west urban renewal, Baltimore City, Md.	LO-2	D
D-HUD-F85004-IL	Westbury subdivision, Hoffman Estates, Ill.	LO-2	F
D-HUD-G85008-TX	Northwest Texarkana sewer mains project, Texas	LO-2	G
D-HUD-K80002-CA	Los Angeles Harbor Industrial Center Redevelopment Center, Wilmington, Los Angeles County, Calif.	3	J
Department of the Interior:			
D-BPA-L08017-OO	Fiscal year 1977 proposed program	ER-2	K
D-IBM-A07012-OO	Surface subsidence control in mining regions	LO-2	A
D-IBR-G07003-NM	Four Corners Powerplant and Navajo Mine, N. Mex.	ER-2	G
D-IBR-K28002-CA	Sugar Pine Dam, reservoir and conduit, Central Valley project, Placer County, Calif.	ER-2	J
Department of Transportation:			
DS-DOT-A40018-MD	Patuxent freeway, MD-108 and MD-32, Maryland	ER-2	D
D-FHW-E40048-AL	West Lee Street, I-65 interchange, Chickasaw, Mobile County, Ala.	LO-2	E
D-FHW-E40055-SC	U.S. 17 and U.S. 21, Beaufort County, S.C.	LO-2	E
D-FHW-H40029-NB	U.S. 6, Holdrege, Phelps County, Nebr.	ER-2	H
D-FHW-L40025-ID	U.S. 12, Lewiston, Nezperce County, Idaho	LO-1	K

APPENDIX II

DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

Environmental Impact of the Action

LO—Lack of Objection. EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations. EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

Environmentally Unsatisfactory. EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate. The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information. EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate. EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final environmental impact statements for which comments were issued between Sept. 16, 1975, and Sept. 30, 1975*

Identifying No.	Title	General nature of comments	Source for copies of comments
Corps of Engineers:			
F-COE-A32487-FL	Tampa harbor project, dredging and spoil disposal, Tampa Harbor, Fla.	EPA generally had no objections to the proposed project. However, EPA intends to review future supplements on the long-term effects on water quality as the information becomes available.	E
F-COE-A34098-AL	Millers Ferry Lock and Dam, Alabama River, Ala.	EPA generally had no objections to the project as proposed. However EPA is concerned about the use of water quality data collected in 1966 which is inapplicable regarding stream channelization. Also, problems associated with releases from power generators are not adequately discussed.	E
F-COE-C36007-NY	Flood control, Senjaqueda Creek and tributaries, N.Y.	EPA generally had no objections to the proposed project.	C
F-COE-F30001-MI	St. Joseph Harbor, mitigation of shore damage, Michigan.	EPA generally had no objections to the proposed project. However, EPA believed that several points in the statement needed further clarification.	F
F-COE-F32006-MN	Two Harbors, Harbor Lake County, Minn.	EPA generally had no objections to the proposed project.	F
F-COE-F35005-OH	Lorain Harbor, diked disposal facility, site No. 7, Ohio.	EPA generally had no objections to the proposed project. However, EPA feels the comments on the draft statement were not given adequate consideration in respect to the water quality monitoring program, implementation of a mitigation and compliance schedule in the event that water quality standards are are violated, nature of the proposed filter core, botulism control strategies, debris trapping and shore erosion.	F
F-COE-F36001-IL	Fulton local flood protection project, Illinois.	EPA generally had no objections to the proposed project which will provide flood protection. However, EPA questions why this plan was selected since it conflicts with the goal to limit or prevent the construction of man-made developments on the flood plain.	F
Department of Defense:			
F-USN-D81002-VA	Fort Story military housing, Virginia Beach, Va.	EPA generally had no objections to the proposed project.	D
Federal Power Commission:			
FS-FPC-A03045-NY	Construction and operation of an LNG import terminal at Staten Island, N.Y.	EPA generally had no objections to the proposed project.	C
F-FPC-K05001-CA	Escondido project No. 176, Escondido, San Diego County, Calif.	EPA's review of the final EIS indicated the statement to be unresponsive to EPA's comments on the draft EIS. EPA is unable to assess the environmental impact of the proposed project as the result of the inadequately prepared final EIS.	J
Department of Housing and Urban Development:			
F-HUD-F85002-IL	Wildwood addition, Decatur, Macon County, Ill.	EPA generally had no objections to the proposed project.	F
Department of the Interior:			
F-BLM-A02071-CA	Proposed 1975 Outer Continental Shelf, oil and gas lease sale No. 35, offshore southern California.	EPA had environmental reservations concerning the proposed OCS sale. EPA called for a deferral in the offering of deepwater or higher risk tracts and a gradual progression into higher risk areas as experience with the requisite technology is assimilated. EPA further urged the development of deepwater operating orders and recommended that development plans should not be approved until the California coastal zone management program has received final approval by the Secretary of Commerce. EPA remained committed to its original recommendations regarding the deletion of 22 biologically sensitive tracts. The establishment of a buffer zone about areas of special biological significance, the exclusion of support facilities from the channel islands, and the use of pipelines.	A

Identifying No.	Title	General nature of comments	Source for copies of comments
F-NPS-D61001-DC	Proposed rehabilitation of the National Mall, Washton, D.C.	EPA generally had no objections to the proposed project. EPA also noted continuing interest as far as its potential for increasing mass transportation use affects EPA's programs to attain and maintain air quality in the Washington metropolitan area.	D
Department of Transportation:			
F-FHW-A41699-VA	I-664, Hampton Roads, Va	EPA generally had no objections to the proposed project.	D
F-FHW-A42005-CA	CA-67, Guadalupe Freeway, Santa Clara County, Calif.	EPA's review of the final EIS indicated the statement to be unresponsive to comments on the draft EIS which expressed major concerns with the project scope and the air quality analysis. Therefore, EPA continues to have environmental reservations on the proposed project.	I
F-FHW-A42223-IL, F-FHW-A42297-IL	IL-412, supplemental freeway La Salle, Lee, Ogle, and Winnebago Counties,	EPA generally had no objections to the proposed project. However, EPA recommended that residences be protected from excessive noise levels as required by the Federal Highway Administration's guidelines.	F
F-FHW-A42401-CA	Freeway development, CA-99, I-5 to CA-70, Sacramento and Sutter Counties, Calif.	EPA's review of the final EIS indicated the statement to be unresponsive to EPA's comments on the draft EIS with respect to the lack of air quality analysis and detrimental secondary effects resulting from the project. Therefore, EPA continues to have environmental reservations on the proposed project.	I
F-FHW-F40010-MI	Rouge River Bridge, Ten Mile Road, Rockford, Kent County, Mich.	EPA generally had no objections to the proposed project.	F
F-FHW-F40011-OH	I-275, Ohio River 4 Mile Road, Cincinnati, Hamilton County, Ohio.	EPA generally had no objections to the proposed project.	F

APPENDIX IV.—*Final environmental impact statements which were reviewed and not commented on between Sept. 16, 1975, and Sept. 30, 1975*

Identifying No.	Title	Source of review
Department of Agriculture:		
F-AFS-A65060-MT	Camp-Tolan planning unit, Bitterroot National Forest, Mont	I
F-AFS-J65010-CO	Timber management plan, Gunnison National Forest, Colo	I
Corps of Engineers:		
F-COE-A32231-OO	Harris Fork Creek, Obion and Forked Deer Rivers and tributaries, Tenn. and Ky.	E
F-COE-A34116-OK	Operation and maintenance program, Eufaula Lake, Canadian River, Okla.	G
F-COE-A36350-MO	Stockton Lake, operation and maintenance program, Sac River, Mo	H
F-COE-L36015-OO	Lower Granite project, Snake River, Wash. and Idaho	K
Energy Research Development Administration:		
F-ERD-A00106-NJ	Tokamak fusion test reactor facilities, Princeton Plasma Physics Laboratory, Middlesex County, N.J.	A
General Services Administration:		
F-GSA-E81003-MS	Federal Building, Jackson, Miss	E
Department of the Interior:		
F-BLM-A02064-00	Proposed increase in oil and gas leasing on the Outer Continental Shelf, 10 million acres.	A
F-SFW-A61257-DE	Proposed Bombay Hook Wilderness Area, Del	D
National Aeronautics and Space Administration:		
F-NAS-A12029-00	Mariner Jupiter/Saturn 1977 program	A
Department of Transportation:		
RF-CGD-A52073-00	Regulations for tank vessels engaged in carriage of oil in domestic trade	A
F-FAA-A51316-LA	New Orleans Lakefront Airport, Orleans Parish, La	G
F-FHW-A41551-GA	GA-365, Hall and Habersham Counties, Ga	E
F-FHW-A41922-ND	Improvement of ND-37, Garrison East, McLean County, N. Dak	I
F-FHW-G40012-NM	Espanola Bridge, Espanola, Rio Arriba County, N. Mex	G
F-FHW-H40017-KS	Improvement of 47th Street from KS-32 to Parallel Avenue, Kansas City, Kans.	H
F-FHW-L40009-OR	Oregon Forest Highway Route 46, Cascade Lakes Highway, Deschutes County, Oreg.	K

APPENDIX V.—*Regulations, legislation, and other Federal agency actions for which comments were issued between Sept. 16, 1975, and Sept. 30, 1975*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Labor:			
R-OSH-A27005-00	29 CFR part 1910, exposure to coke oven emissions, proposed standard.	EPA had only minor comments on the proposed standard and will review the EIS currently being prepared on the standard when it is available. EPA is concerned that the attainment of OSHA's standards for occupational exposure to coke oven emissions be compatible with EPA's efforts to regulate atmospheric emissions of pollutants from coke oven operations.	A

APPENDIX VI

SOURCE FOR COPIES OF EPA COMMENTS

A. Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, 1421 Peachtree Street, NE, Atlanta, Georgia 30309.

F. Director of Public Affairs, Region V, Environental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc.75-30670 Filed 11-13-75;8:45 am]

[FRL 457-1]

MOTOR VEHICLE POLLUTION CONTROL

Motorcycle Regulations; Notice of Public Meeting

The Environmental Protection Agency will hold a public meeting at 9:00 a.m., Thursday, December 18, 1975, in Room 102 of the Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105, to respond to questions that motorcycle manufacturers and others may have regarding the proposed emission regulations for new motorcycles published on October 22, 1975, in the FEDERAL REGISTER (40 FR 49496). The purpose of the meeting is to aid affected motorcycle manufacturers and interested parties in gaining a better understanding of the proposed regulations so that they can prepare more informed comments on the regulations.

The scope of the meeting will be limited to answering technical questions regarding the proposed certification process, emission test procedure, and test equipment. Issues related to the need for and the level of the proposed standards, and the corresponding implementation dates, will not be addressed.

The agenda for the meeting will be composed of a list of questions to be developed from individual questions submitted by manufacturers' associations, manufacturers, and other interested parties. This procedure will allow more comprehensive and definitive responses to be prepared by the Environmental Protection Agency prior to the meeting, and avoids the need for publicly identifying the source of the question, which identification may have trade secrecy implications. However, questions will also be accepted from the floor.

Questions for the meeting agenda should be submitted to the Director, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Questions received by the close of business on Deecmber 3, 1975, will be considered in the preparation of the agenda. Copies of the agenda will be mailed on December 11, 1975, to all persons who submitted questions for the agenda or requested a copy. The agenda will also be available at the meeting.

A verbatim record of the meeting will be made. A copy of the transcript will be available for inspection at the U.S. Environmental Protection Agency Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460, and may also be purchased from the reporting company.

Dated: November 11, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.75-30813 Filed 11-13-75;8:45 am]

[FRL 457-2]

SCIENCE ADVISORY BOARD NATIONAL AIR QUALITY CRITERIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the National Air Quality Criteria Advisory Committee of the Science Advisory Board will be held at 9:00 a.m. on December 4, 1975 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The purpose of the meeting will be (1) to consult the committee on scientific aspects of a control strategy for fine particulates; (2) to consult the Committee on scientific aspects of a control strategy for vinyl chloride; (3) to hear and discuss progress reports from committee review groups which are to review the criteria documents for sulfur oxides, particulate matter, carbon monoxide, photochemical oxidants, hydrocarbons, and nitrogen oxides; and (4) to brief the committee on and to discuss current developments of the Science Advisory Board and future plans. The Agenda will also include (5) brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Executive Secretary, Mr. Ernst Linde, Scientist Administrator, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460.

The telephone number is (703) 557-7720.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

[FR Doc.75-30814 Filed 11-13-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20666; File No. BPH-9193; FCC 75-1223]

JAMES H. BELOTE

Request for Construction Permit

1. The Commission has before it: (a) the above-captioned application, filed October 7, 1974, by James H. Belote [Belote] to provide new commercial FM service to Rockport, Texas; (b) a petition to deny the application, filed November 22, 1974, by Bethany Investment Corporation [BIC], licensee of KBIC-FM, Alice, Texas; and (c) an opposition thereto.

2. BIC operates a co-channel class A FM facility in Alice, Texas, which is approximately 63.5 miles from Belote's proposed operation; therefore, Belote's application is "short-spaced" by 1.5 miles, according to the provisions of § 73.207(a) of the rules. Although short-spacings of this magnitude have often been waived by the Commission, BIC has elected to exercise its rights under section 316 of the Act. Accordingly, it must be given the opportunity of showing why its license should not be modified by a grant of the proposed operation and appropriate issues have been specified. *F.C.C. v. National Broadcasting Company, Inc. (KOA)*, 319 U.S. 239 (1943).

3. BIC advances questions regarding Belote's financial qualifications and his alleged failure to comply with the provisions of the *Primer on the Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971). In rebuttal, Belote denies that his application is deficient in any aspect. Although Belote has answered some of the financial and legal objections posed by BIC, we are convinced that serious deficiencies remain in connection with Belote's application.

4. Analysis of the applicant's financial documentation reveals that he will require $28,222 to construct and operate his proposed facility for a period of one year, without reliance on revenues, itemized as follows:

Down payment on equipment	$793
Additional payments on equipment lease	5,151
Miscellaneous	1,893
Working capital	20,385
Total	$28,222

In order to offset this projected requirement, Belote relies upon existing capital and "funds saved from salary of existing position during construction period and first year of operation." The applicant asserts the availability of $65,183 in total liquid assets. As no breakdown of Belote's liabilities into current

and long-term categories was included, as required by section III, paragraph 4(b) of the application form, all liabilities were treated as current. Netting these liabilities against the allowable current liquid assets, we have determined that Belote has demonstrated the availability of $23,049 n existing capital. The remainder of his anticipated costs is to be supplied by an amount of money saved from his current income. We cannot accept such an assertion, for whatever monies Belote can accumulate in anticipated savings is purely speculative at this point, and do not represent money "on hand and available." Thus, the applicant has established the apparent availability of $23,049 to meet a projected requirement of $28,222.[1] Therefore, a financial issue will be specified as to the proposed source of funds necessary to offset the projected costs.

5. The petition further questions Belote's efforts to ascertain the problems and needs of Rockport, Texas. BIC points to the small number of community leaders contacted, the absence of any consultations with members of the general public, and the failure of the applicant to provide a comprehensive list of those problems and needs ascertained. In response, Belote does not offer any additional interviews, but asserts that the "broad cross-section of the population represented" by the five community leaders specifically listed and the unsupported allegation that "[m]any members of the local community were contacted" demonstrate his compliance with the obligations of the *Primer*. We do not agree. Of the five consultations made for the entire ascertainment survey, four represented the business segment of Rockport [two individuals represented the Rockport Chamber of Commerce], and one leader was representative of government interests. Despite the applicant's admission of the presence of industrial, educational, recreational, civil and social activity, as well as a substantial minority population of Blacks and Mexican-Americans, no interviews were undertaken with community leaders of these interests. Additionally, no leaders of religious or women's groups were contacted. The applicant also fails to state the date(s) on which these consultations were made. As observed by the petitioner, no consultations with members of the general public were reported by the applicant, and what purports to be a list of community problems does not satisfy the requirements of the *Primer*. Finally, the application fails to adequately describe the proposed programs designed to meet the problems and needs ascertained by the applicant. Each of these deficiencies are in direct violation of a specific question and answer of the *Primer*, and a general ascertainment issue is therefore clearly warranted. That we may be "aware of the difficulty involved in conducting a survey," as claimed by Belote, does not excuse the wholly incomplete and unsatisfactory showing associated with the application.

6. In light of the foregoing, *it is ordered*, That, the petition to deny, filed herein by BIC, is granted to the extent indicated, and denied in all other respects, and that, pursuant to section 309 (e) of the Communications Act of 1934, as amended, the application of James H. Belote is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether James H. Belote has sufficient additional funds to meet his projected construction and first-year operating costs and, in light thereof, whether he is financially qualified to construct and operate as proposed.

2. To determine the efforts made by Belote to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

3. To determine whether the proposal of James H. Belote would contravene the minimum mileage separation requirements of section 73.207 of the Commission's rules, and, if so, whether the public interest would be served by a waiver thereof.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest.

7. *It is further ordered*, That Bethany Investment Corporation is made a party to this proceeding.

8. *It is further ordered*, That, to avail itself of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered*, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, in § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 29, 1975.

Released: November 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-30750 Filed 11-13-75;8:45 am]

[1] BIC questioned the operating expenditures proposed by Belote. Although we need not pass on this matter, as Belote is more than $5,000 deficient in his proposed funding, we note that the bases for the applicant's estimates were adequately explained in his rebuttal, and further, that the music license fees allocated in the cost estimates need not be established, as they are revenue-related. *Jerry J. Collins*, 50 FCC 2d 715 (1975). Although some of the applicant's estimates may appear to be low, they are not unreasonable on their face and will be accepted. *Id.*

[Docket No. 20493; FCC 75-1219]

MOUNTAIN MICROWAVE CORP.

Revised Rates for Microwave Service

In the matter of Mountain Microwave Corporation revised rates for microwave service, Tariff F.C.C. Nos. 1, 3–7, 9–11, Transmittal No. 68.

1. The Commission has before it Transmittal No. 68 of Mountain Microwave Corporation (MMC) and the accompanying revised tariff pages filed on August 29, 1975 to become effective November 1, 1975. Petitions to suspend, investigate, and order an accounting with respect to the proposed tariffs were filed by (a) Teleprompter Cable Communications Corp. (Teleprompter), operator of cable television systems serving Trinidad and Jansen, Colorado; (b) Canyon Cable TV Corp. (Canyon), operator of cable systems in Aspen and Rifle, Colorado; and (c) Comtronics Cable TV, Inc. (Comtronics), operator of a cable system in Grand Junction, Colorado. A petition for rejection or suspension and investigation of the proposed tariff revisions was filed by Heritage Communications, Inc., operator of cable systems serving Buena Vista, Lamar, and Walsenburg, Colorado.[1] North Platte Multi-Vue TV Systems, Inc. and McCook Multi-Vue TV System, Inc. (Multi-Vue), operator of cable systems in North Platte, Nebraska and McCook, Nebraska respectively, filed a "Petition to Suspend" requesting suspension and investigation in the event the tariff revisions are not rejected. MMC filed a motion to dismiss the Heritage and Multi-Vue petitions, and subsequently Multi-Vue filed a petition for rejection.[2] MMC also opposed the foregoing suspension petitions.

2. MMC supplies point-to-point microwave radio services through its operating divisions to cable television and broadcast customers. MMC's Mountain Division provides five Denver, Colorado television broadcast signals to cable operators throughout Central and Southern Colorado and Central Western Kansas. It also supplies Salt Lake City, Utah broadcast signals to the Vernal, Utah

[1] Petitions for rejection are to be acted on by the Chief, Common Carrier Bureau pursuant to authority delegated under §§ 0.91 and 0.291 of the Commission's Rules. On the other hand, petitions for suspension are to be acted on by the Commission. Since Heritage's petition seeks rejection or suspension of the subject tariff revision, it is in violation of § 1.44 of the Rules. A separate petition for rejection should have been filed with the Chief, Common Carrier Bureau. Nevertheless, we will consider Heritage's petition on our own motion. See footnote 2, *infra*.

[2] We shall deny the Heritage and Multi-Vue requests for rejection of the proposed tariff revisions on our own motion. Although the petitions may raise questions of lawfulness warranting further investigation and hearing, they do not establish *prima facie* unlawlessness to the extent that rejection would be appropriate. *Cf., In the Matter of United Video, Inc.'s Revised Rates for Microwave Service*, Docket 20198, 49 FCC 2d 878, 880 (1974).

cable system and includes a dedicated system for the University of Utah. MMC's Great Plains Division supplies the five Denver signals to cable operators in Northeastern Colorado, Western Nebraska and South Dakota and provides service to one television station in South Dakota. The division also provides the signal of Station WTCN–TV, Minneapolis, Minnesota, to various South Dakota communities through an interconnect with another common carrier, and the signal of Station KXON–TV, Mitchell, South Dakota, to two cable systems. Although not affected by MMC's filing, the carrier also supplies network and other programming to television broadcast stations in Colorado, Utah, Nebraska and South Dakota. The proposed tariffs filed with Transmittal No. 68 result in rate increases of varying amounts for most customers of the described MMC services. MMC proposes rate structures based on concepts similar to those embodied in the American Television Relay, Inc. (ATR) and Western Tele-communications, Inc. (WTCI) proposed rate structures.[3]

MMC's rate structures for its Denver service are based on four geographical zones in the Mountain Division and two zones in the Great Plains Division, as well as the population of the areas served by the customer. All other services in the division consist of a single zone. The WTCN–TV service is based on a step rate structure and the remaining services are on a flat rate base. The overall effect of the proposed rates, based on 1974 as a test year, is to increase MMC's revenues from approximately $80,000 monthly to approximately $115,000 monthly or about 44%. According to MMC's Section 61.38 data, its return in 1974 was 2.03%. Under the proposed rate structures, MMC projects a return in 1975 to be 8.59%; in 1976, 10.27%; and in 1977, 12.58%. MMC claims that a reasonable rate of return on its investment should be 18.92% and, thus, it will continue to have an earnings deficiency for the years noted above notwithstanding the instant rate increase.

3. Petitioners, with the exception of Multi-Vue, maintain that the zone and population concepts which form the foundation of MMC's rate structures are identical to those being considered by the Commission in *In the Matter of ATR's Revised Rates for Microwave Service*, Docket No. 19609, 37 FCC 2d 751 (1972), and *In the Matter of Western Tele-communications, Inc.*, Docket No. 20493, (FCC 75–614, released June 11, 1975). On this basis, petitioners urge the Commission to suspend and investigate MMC's tariff revisions deferring a hearing pending the outcome of the ATR case and possibly the WTCI case. Canyon, Comtronics, and Heritage emphasize that, unlike the ATR system, both the WTCI and MMC markets are almost fully developed, thereby raising the question of whether a "developmental rate structure" is warranted in this case. Petitioners allege that the geographic zones and population categories are arbitrary and discriminatory, each citing instances of disparties. In emphasizing differences between MMC's situation and those of ATR and WTCI, Canyon and Comtronics state that MMC's market consists of small and medium sized communities and that the signals originate from a central location. Teleprompter and Heritage argue that the zones do not adequately reflect distance from the signal source and that the population categories result in disparate treatment for like customers in different divisions. Multi-Vue maintains that the proposed tariff is designed to give unreasonable preference to cable systems owned by MMC-related companies.[4] In support of its position, Multi-Vue states that the proposed tariff revisions would result in increases of 25% for MMC-related customers as opposed to 47% for Multi-Vue. Teleprompter maintain that the proposed tariff would result in an increase of 214% in its rate paid to MMC. Both Heritage and Multi-Vue claim that the rate increases would seriously impair the economic viability of their systems.

4. Canyon raises the question of possible cross-subsidization because of the relationship of MMC to the other TCI subsidiaries, and urges investigation into this matter. Teleprompter also expresses concern over cross-subsidization, but on the basis that MMC intends to utilize separate rate structures for multiple services. Both Heritage and Multi-Vue complain of frequent quality deficiencies and interruptions in the service received from MMC.[5] The problems reported to MMC have not been adequately or promptly resolved, the petitioners maintain. As a result, Multi-Vue alleges, its system growth and subscriber relations have suffered. Multi-Vue also objects to MMC's prohibition against retransmission of the signals outside a customer's franchise area.

5. Several petitioners maintain that the rate of return claimed by MMC, 18.92%, is not justified by the Section 61.38 material submitted. Teleprompter and Multi-Vue base their contentions on the fact that MMC uses a theoretical 50%—50% debt/equity ratio rather than the actual 55%—45% ratio of WTCI and that MMC overstates it cost of debt (11.72%) and equity (26.13%). Teleprompter also argues that MMC includes inappropriate items such as a plant acquisition adjustment account and an allocation of working capital in its rate base.

6. In its opposition to the petitions, MMC acknowledges that a determination on its proposed rate structure should await the outcome of the *ATR* proceeding in Docket No. 19609. MMC does not object to institution of an investigation but is opposed to a suspension of the revised rate structure. MMC argues that the Commission should not suspend its rates since the Chief, Common Carrier Bureau found the basic concept of the rate structure to be just and reasonable in the ATR Recommended Decision. In support of its position that it revised rate structure should not be suspended, MMC claims that its projected rate of return is lower than those in the *ATR* case and thus does not exceed a reasonable level. MMC also claims that it requires the additional revenues from the revised tariffs to cover its cost of debt and in view of inadequate returns on equity. Furthermore, MMC argues that the present case is distinguishable from the WTCI case (where the tariff was suspended) since rate of return questions of the subject carrier have now been given careful consideration and rate of return issues have not here been strongly contested.

7. MMC denies that any cross-subsidization between its carrier operations and non-carrier affiliates exists or is intended. It claims that its costs were fully set forth in its Section 61.38 material and that a carrier is entitled to a reasonable rate of return regardless of its affiliation with non-carrier operations. MMC maintains that it provides satisfactory service to its customers. It claims that Heritage provides only general statements concerning this issue and that Multi-Vue's problems are the subject of a separate formal complaint which should not be included in this proceeding. Regarding its material submitted pursuant to Section 61.38 of the Rules, MMC maintains that its submission is acceptable.

8. We are of the opinion that questions are raised as to whether MMC's proposed tariffs are lawful within the meaning of Sections 201(b) and 202(a) of the Communications Act and that further investigation and hearing is warranted. Questions of lawfulness exist regarding MMC's proposed rate structure which are generally the same as, if not identical to, those under consideration in the *ATR* and *WTCI* proceedings. Because of the similarities between the MMC and WTCI proposed rate structures and the accompanying supporting data, as well as the relationship of MMC and WTCI, we are combining the investigation of MMC's revised rate structures filed with Transmittal No. 68 and WTCI's in Docket No. 20493. This procedure will permit consideration in pertinent respects of the relationship of WTCI and MMC. Of course, the issues raised in the Designation Order in Docket No. 20493, *supra*, such as reasonableness of rate of return, debt and equity costs, and rate base calculations, are applicable to MMC's tariff filing also. Procedurally, since Recom-

[3] The lawfulness of these concepts as they apply to specific tariff filings are being considered in Docket Nos. 19609 (ATR) and 20493 (WTCI).

[4] MMC and ATR are wholly-owned carrier subsidiaries of WTCI, which is a wholly-owned subsidiary of Tele-Communications, Inc., (TCI). TCI's other wholly-owned subsidiary, Community Tele-Communications, Inc., is involved primarily in ownership and operation of cable television systems.

[5] Multi-Vue has on file a formal complaint against MMC. Since many of the issues raised in Multi-Vue's complaint are related to the subject proceeding, we will defer consideration of Multi-Vue's complaint pending the outcome of this docket. The public interest will best be served by this action.

mended Decisions are not binding, MMC's reliance on the Common Carrier Bureau's Recommended Decision in the *ATR* case is misplaced.

9. We shall suspend MMC's proposed rate increases for the maximum ninety day statutory period and impose an accounting order. Such suspension is justified for essentially the same reasons as those articulated in paragraph 10 of the Designation Order in Docket No. 20493, *supra*. By including the subject tariff revisions into Docket No. 20493, the evidentiary hearing on MMC's rate structures will be deferred pending completion of proceedings in Docket No. 19609.

10. *Accordingly, it is ordered*, That, pursuant to Sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by MMC with Transmittal No. 68 including any cancellations, amendments or re-issues thereof;

11. *It is further ordered*, That, pursuant to the provisions of Section 204 of the Act, the revised tariff schedules filed by MMC with Transmittal No. 68 are hereby suspended until January 30, 1976 and that MMC, as to the operation of such tariff schedules shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increases, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision herein, the Commission may by further order, require the refund thereof, with interest, pursuant to Section 204 of the Act, and the carrier shall file such reports on the amounts accounted for as the Chief, Common Carrier Bureau shall require;

12. *It is further ordered*, That, without in any way limiting the scope of the investigation, it shall include consideration of the following:

(1) Whether the charges, classifications, practices and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of Section 201(b) of the Act;

(2) Whether such charges, classifications, practices and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of Section 202(a) of the Act;

(3) If any such charges, classifications, practices, or regulations are found to be unlawful whether the Commission, pursuant to Section 205 of the Act, should prescribe charges, classifications, practices and regulations for the service governed by the tariffs, and if so, what should be prescribed;

13. *It is further ordered*, That, pursuant to Sections 4(i) and 4(j) of the Act hearings in this investigation are consolidated with those already established in Docket No. 20493 and are deferred during the pendency of Commission proceedings in Docket No. 19609 or until further Commission order;

14. *It is further ordered*, That, MMC IS MADE a party Respondent herein and that Teleprompter Canyon Cable TV Corp./Comtronics Cable TV, Inc., Heritage Communications, Inc., North Platte Multi-Vue TV Systems, Inc., McCook Multi-Vue TV System, Inc. and the Trial Staff ARE MADE parties pursuant to § 1.221(d) of the Commission's Rules, and that all other interested persons wishing to participate may do so by filing a notice of intention to participate within 30 days of the release date of this order;

15. *It is further ordered*, That, the aforementioned petitions are granted to the extent indicated herein and are otherwise denied;

16. *It is further ordered*, That, the Secretary shall send a copy of this order by certified mail, return receipt requested, to the parties identified in paragraph 14 above, and shall cause a copy to be published in the FEDERAL REGISTER.

Adopted: October 29, 1975.

Released: November 5, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-30751 Filed 11-13-75;8:45 a.m.]

FIXED SATELLITE ADVISORY COMMITTEE, 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Meeting

In further preparation for the 1979 World Administrative Radio Conference, a meeting of the Fixed Satellite Advisory Committee chaired by Raymond B. Crowell, will be held on Friday, December 5, 1975, at 10:00 a.m., room 8210, located at 2025 M Street NW., Washington, D.C.

The meeting will be opened to the public and any member of the public is invited to participate and present oral or written statements of relevance to the agenda upon recognition by the Chairman. Any such oral statements should be cleared with the Chairman at least one day prior to the meeting.

In accordance with procedural rules established at the previous meeting, a final membership list will be determined as of the end of business on December 5. Anyone not now a member of this Committee and wishing to become a member should notify the Chairman by that time.

The meeting will be conducted in accordance with the following agenda:

1. Chairman's opening remarks.
2. Approval of minutes of previous meeting of October 3.
3. Discussion and review of final membership list.
4. Discussion of accelerated time table for output of committee.
5. Report of informal task group 1 (allocations).
6. Report of informal task group 2 (technical other than sharing).
7. Report of informal task groups 3 and 4 (sharing).
8. Discussion of task force reports.
9. Discussion and review of further task group assignments.
10. Suggestions for matters to be covered at next meeting.
11. Date of next meeting.
12. Any other business.
13. Adjournment.

No part of this meeting will be concerned with matters which are within the exemptions of the Public Information Act, 5 U.S.C. 55s(b).

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-30749 Filed 11-13-75;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 126, Airborne OMEGA Receivers. It is to be held on December 4, 1975 in Conference Room 9A and B, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C., commencing at 9:30 A.M.

AGENDA

1. Chairman's Opening Comments—I. Lublin.
2. Introduction of members and guests.
3. Approval of Minutes of the Fifth Meeting of SC-126 held on 30 October 1975.
4. Special Announcements.
5. Report of Informal Groups: 5.1 Low Performance, 5.2 High Performance, 5.3 FAA Certification.
6. New Business.
7. Date and place of next meeting.

Meetings of Special Committee 126 are open to the public, subject to limitations of space available, and any member of the public may present oral statements at the meeting, subject to time available, or may submit written statements to the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone Area Code (202) 296-0484.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-30747 Filed 11-13-75;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 129, Future Civil Aviation Frequency Spectrum Requirements. It is to be held December 5, 1975, in Conference Room 261, Matomic Building, 1717 H Street, Northwest, Washington, D.C., commencing at 9:30 A.M.

AGENDA

1. Review and approval of Minutes of meeting held November 6, 1975.

2. Chairman's comments.
3. Report on FCC Steering Committee meeting.
4. Reports of Informal Groups.
5. Review, revision and approval of Draft Table of Allocations.
6. Other Business.
7. Date and place of next meeting.

Meetings of Special Committee 129 are open to the public, subject to limitations of space available, and any member of the public may present oral statements at the meeting, subject to time available, or may submit written statements to the RTCA Secretariat. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone Area Code (202) 296-0484.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-30748 Filed 11-13-75;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 130—Reliability Specifications for Airborne Electronics Systems. The meeting is to be held on December 2-3, 1975, in Conference Room 7A and B, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C., commencing at 9:30 A.M.

AGENDA

1. Chairman's comments.
2. Review and approval of Minutes for meeting held September 23-24, 1975.
3. Review of Terms of Reference.
4. Recap of SC-130 objectives.
5. Reports of Informal Working Groups.
6. FAA Progress Report on AC25.1309.
7. Other Business.
8. Assignment of Tasks.
9. Date and place of next meeting.

Meetings of Special Committee 130 are open to the public, subject to limitations of space available, and any member of the public may present oral statements at the meeting, subject to time available, or may submit written statements to the RTCA Secretariat. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suit 655, 1717 H Street NW., Washington, D.C. 20006, or telephone Area Code (202) 296-0484.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-30746 Filed 11-13-75;8:45 am]

FEDERAL MARITIME COMMISSION

[No. 75-48]

SEA-LAND SERVICE, INC. V. THE CITY OF ANCHORAGE, ALASKA AND TOTEM OCEAN TRAILER EXPRESS, INC.

Notice of Filing of Complaint

Notice is hereby given that a complaint filed by Sea-Land Service, Inc. against the City of Anchorage, Alaska, and Totem Ocean Trailer Express, Inc. was served November 7, 1975. The complaint alleges violation by respondents of section 15 and 16 First of the Shipping Act, 1916 in connection with furnishing of terminal facilities at the Anchorage City Dock under FMC Agreement Nos. T-1685 and T-3130.

Hearing in this matter shall commence on or before May 7, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-30770 Filed 11-13-75;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 7, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FPC and ICC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed forms, comments (in triplicate) must be received on or before December 2, 1975, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street, N.W., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL POWER COMMISSION

The Federal Power Commission (FPC) requests an extension no change clearance to continue the collection of data submitted on FPC Form No. 13, Summary for National Electric Rate Book, by electric utilities. FPC Form 13 presents summaries of rate schedules, by states, for service to residential, commercial and industrial customers for lighting, heating, power and other purposes. Form No. 13 is the basis for the FPC publication, "National Electric Rate Book." FPC Form No. 13 is to be filed annually by approximately 1500 electric utilities and it is estimated that an average of 1.75 hours will be required per response.

The Federal Power Commission (FPC) requests an extension no change clearance to continue the collection of data submitted on FPC Forms, "Weekly Fuel Emergency Report: 237A-COAL—237B-OIL, by electric utility companies. These reporting forms require electric utility companies to report emergency fuel situations on a weekly basis if necessary in order to enable the Commission to be appraised of emergencies arising from inadequate fuel supplies and enable the Commission to take appropriate measures to assist affected utilities to cope with such problems. The number of respondents will vary according to fuel emergency situations (numbering approximately 250 during past reporting years) and it is estimated that an average of two hours will be required per response.

The Federal Power Commission (FPC) requests an extension no change clearance to continue the use of FPC Form No. 314-A, Application for Small Producer Exemption, and FPC Form No. 314-B, Annual Statement for Independent Producers Holding Small Producers Exemptions. FPC Form No. 314-A is the application filed by small producers requesting exemption by the Commission from certain regulations. FPC Form No. 314-B is the annual statement required as verification to the Commission that total jurisdictional sales were sufficiently low to qualify the respondents for continued exemption. The number of respondents will total 5,000 and it is estimated that an average of 3 hours will be required per response.

INTERSTATE COMMERCE COMMISSION

Request for an extension no change clearance of Quarterly Report of expenditures for Additions and Betterments (Statistical Series Circular Nos. 31, 40, 41 and 42), filed voluntarily by some 74 Class I line-haul railroads, 75 Class A water carriers, 900 Class I motor carriers of property, 2600 Class II motor carriers of property, 111 Class I motor carriers of passengers, and 104 oil pipeline companies. Reporting burden per report is estimated to average 2 hours per report. Reports are voluntary and not available for public use on an individual basis.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.75-30741 Filed 11-13-75;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

COMMITTEE ON EARLY CHILDHOOD EDUCATION

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the previously scheduled meeting of the Committee on Early Childhood Education of the National Advisory Council on the Education of Disadvantaged Children to meet in Clark County, Nevada on Thursday, November 13, and Friday, November 14,

1975, has been rescheduled for November 10–11, 1975, in West Chester, Pennsylvania.

The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

This visit will include observing a Pre-School Program and reviewing and discussing the Draft Early Childhood Education Report to be included in the 1976 Annual Report.

Signed at Washington, D.C., on October 16, 1975.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.75-30720 Filed 11-13-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP74-14; RP74-34]

CASCADE NATURAL GAS CORP.

Notice of Proposed PGA Rate Decrease

NOVEMBER 5, 1975.

Take notice that on October 15, 1975 Cascade Natural Gas Corporation, pursuant to Section 154.62 of the Regulations under the Natural Gas Act, filed Seventh Revised Sheet No. 2 to its FPC Gas Rate Schedule No. 1. Cascade states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision authorized by the Commission's order issued November 28, 1973 in Docket Nos. RP74-14 and RP74-34. More specifically, the tariff sheet reflects a net decrease over that currently being collected of 2.54 cents per Mcf to be effective December 1, 1975.

Any person desiring to be heard and to make any protest with reference to said filing should on or before November 21, 1975, file with the Federal Power Commission, 825 North Capitol Street, N. E., 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, 1.10). All protests filed with the Commission will be considered by it 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 must file petitions to intervene in accordance with the Commission's Rules. Cascade's tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30697 Filed 11-13-75;8:45 am]

[Docket No. CP76-137]

CITIES SERVICE GAS CO.

Notice of Application

NOVEMBER 5, 1975.

Take notice that on October 17, 1975, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP76-137 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of certain pipeline taps, regulator facilities and meter loops to enable Applicant to render natural gas service to The Gas Service Company (Gas Service) for resale, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that items proposed to be constructed are taps for resale to 27 rural domestic right-of-way grantors pursuant to right-of-way easement agreements. The individual proposed domestic sales meter sites would be located as follows:

(1) On Applicant's St. Joseph 26-inch pipeline in Leavenworth County, Kansas.
(2) On Applicant's Pleasant Hill 8-inch pipeline in Cass County, Missouri.
(3) On Applicant's Mulvane 4-inch pipeline in Sedgwick County, Kansas.
(4) On Applicant's Nowata 6-inch pipeline in Washington County, Oklahoma.
(5) On Applicant's Carthage 10-inch pipeline in Jasper County, Missouri.
(6) On Applicant's Dewey 6-inch pipeline in Washington County, Oklahoma.
(7) On Applicant's Dewey 6-inch pipeline in Washington County, Oklahoma.
(8) On Applicant's Ponca City 6-inch pipeline in Kay County, Oklahoma.
(9) On Applicant's North Topeka 10-inch pipeline in Jefferson County, Kansas.
(10) On Applicant's Kansas-Hugoton 26-inch pipeline loop in Reno County, Kansas.
(11) On Applicant's Maysville 20-inch pipeline in McClain County, Oklahoma.
(12) Two taps on Applicant's Chanute 6-inch pipeline in Neosho County, Kansas.
(13) On Applicant's Chanute 6-inch pipeline in Neosho County, Kansas.
(14) On Applicant's Chanute 6-inch pipeline in Wilson County, Kansas.
(15) On Applicant's Chanute 6-inch pipeline in Neosho County, Kansas.
(16) On Applicant's Woods 12-inch pipeline in Grady County, Oklahoma.
(17) On Applicant's Dewey 6-inch pipeline in Washington County, Oklahoma.
(18) On Applicant's Carthage 10-inch pipeline in Jasper County, Missouri.
(19) On Applicant's Edmond 20-inch pipeline in Logan County, Oklahoma.
(20) On Applicant's Gordon 8-inch pipeline in Butler County, Kansas.
(21) On Applicant's Sterling 12-inch pipeline in Comanche County, Oklahoma.
(22) On Applicant's McLouth 20-inch pipeline in Leavenworth County, Kansas.
(23) On Applicant's Kansas-Hugoton 26-inch pipeline loop in Marion County, Kansas.
(24) On Applicant's Cambridge-Petrolia 16-inch pipeline in Allen County, Kansas.
(25) On Applicant's Welda-Ottawa 20-inch pipeline in Franklin County, Kansas.
(26) On Applicant's Sterling 4-inch pipeline in Comanche County, Oklahoma.
(27) On Applicant's Lone Jack 4-inch pipeline in Jackson County, Missouri.

At each proposed site Applicant states that it would construct regulating and appurtenant facilities that constitute a resale mainline domestic sale meter station.

Applicant estimates that the total cost of the proposed facilities would be $12,850, which cost would be borne from treasury cash. The total additional sales of natural gas are estimated by Applicant to be approximately 6,409 Mcf per year.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30698 Filed 11-13-75;8:45 am]

[Docket No. RP76-28-1]

CITIES SERVICE GAS CO. (EMPIRE DISTRICT ELECTRIC CO.)

Filing of Petition for Extraordinary Relief

NOVEMBER 5, 1975.

Take notice that on October 17, 1975, the Empire District Electric Company (Empire) filed in Docket No. RP76-28-1, pursuant to § 2.78(b) of this Commission's General Policy and Interpretations, a petition requesting extraordinary relief from gas curtailment of its supplier, Cities Service Gas Company (Cities Service), all as more fully set forth in the petition on file with the Commission and open to public inspection.

In its petition, Empire states that Cities Service supplies gas to its Riverton Plant on an interruptible basis. Empire states that the relief requested is not for gas for the generation of energy, but for plant protection, continuous service ignitors and flame stabilization for boiler operation using alternate fuels, coal and heavy oil. It states that the present ignitors and flame pilots are designed only for natural gas. Additionally, Empire re-

quests that gas be made available for generating units safe shut-down and starts.

Specifically, Empire requests 2,000 Mcf per day average over the period November, 1975, through March 1976, to protect boilers from freezing while down for short periods, continuous pilot requirements, and flame stabilization. The request for those requirements for that period is 3,022,750 Mcf. For nonrecurring starts, Empire requests 750 Mcf for each of 3 periods each month plus additional 750 Mcf for each of 2 forced outages each month.

Any person desiring to be heard or to make any protest with reference to this tariff filing should on or before November 26, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30699 Filed 11-13-75;8:45 am]

[Project No. 201]

CITY OF PETERSBURG, ALASKA

Issuance of Annual License

NOVEMBER 5, 1975.

On January 2, 1974, the City of Petersburg, Alaska, Licensee for Crystal Lake Project No. 201 located on Crystal Lake, partly on U.S. lands within the Tongass National Forest, of Mitkof Island, Alaska, was granted an extension of time, expiring on November 12, 1975, in which to file an application for a new license under the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 201 was issued effective November 13, 1924, for a period ending November 12, 1974. In order to authorize the continued operation and maintenance of the Crystal Lake Project pending filing of Licensee's application and Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the City of Petersburg, Alaska for continued operation and maintenance of Project No. 201.

Take notice that an annual license is issued to the City of Petersburg, Alaska (Licensee) for the period November 13, 1975, to November 12, 1976, or until the issuance of a new license for the project, for the continued operation and maintenance of Crystal Lake Project No. 201, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30700 Filed 11-13-75;8:45 am]

[Docket No. CP76-141]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

NOVEMBER 5, 1975.

Take notice that on October 23, 1975, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP76-141 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Virginia Pipe Line Company (Virginia Pipe) certain facilities in Amherst, Bedford and Rockbridge Counties, Virginia, and for a certificate of public convenience and necessity authorizing the construction and operation of a point of delivery to Virginia Pipe, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that pursuant to an agreement dated July 2, 1975, between itself and Virginia Pipe, Virginia Pipe has agreed to purchase from Applicant approximately 42 miles of 6-inch gas transmission pipeline with associated structures, land, easements, rights-of-way, permits, licenses, and appurtenant personal property and fixtures that Applicant owns and operates in Amherst, Bedford and Rockbridge Counties, Virginia. The price of the facilities to be sold to Virginia Pipe would be equal to the original cost less accrued depreciation, as reflected on Applicant's books at the date of consumation of the transaction, not to exceed $302,000. Applicant is also said to provide service to Columbia Gas of Virginia Inc. an affiliate of Columbia through 23 direct sales mainline taps on a section of 6-inch pipeline proposed for sale. The forestated taps are said to provide service to 29 residential and 2 small commercial customers, which service would be provided by Virginia Pipe after the proposed sale.

Applicant also requests authorization to construct and operate a point of delivery to Virginia Pipe at Applicant's Lexington Compressor Station located in Rockbridge County, Virginia. The stated purpose of the delivery point would be to allow Applicant to make deliveries of natural gas to Virginia Pipe that are now being made at various points on the pipeline proposed to be sold. Applicant estimates that the cost of the delivery point would be approximately $25,000, which cost Applicant would finance from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.30701 Filed 11-13-75;8:45 am]

[Docket No. RP72-134 (DCA 76-1)]

EASTERN SHORE NATURAL GAS CO.

Increase in Commodity or Delivery Charges To Reflect Curtailment Credits

NOVEMBER 5, 1975.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on October 29, 1975, tendered for filing Fifteenth Revised Sheet No. 3A and Fifteenth Revised PGA-1 to its FPC Gas Tariff, Original Volume No. 1, to be effective December 1, 1975. The aforementioned revised tariff sheets will increase the commodity or delivery charge of Eastern Shore's Rate Schedules CD-1, CD-E, G-1 and PS-1 by .038 per Mcf to reflect curtailment credits to be effective December 1, 1975.

Copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 20, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30702 Filed 11-13-75;8:45 am]

[Docket No. RP75-1]

FLORIDA GAS TRANSMISSION CO.

Certification of Proposed Settlement Agreement

NOVEMBER 5, 1975.

Take notice that on October 28, 1975, Presiding Administrative Law Judge Samuel Z. Gordon certified to the Commission for its consideration and disposition a proposed settlement agreement in the above-entitled proceeding, together with the entire record related thereto. The settlement agreement, if approved, would resolve all issues in the proceeding with the exception of the fair and reasonable rate of return to be allowed on Florida Gas' common equity capital. The rate of return issue is reserved for future trial and decision.

Any person wishing to do so may submit comments in writing concerning the proposed settlement. All such comments should be addressed to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should be submitted on or before November 21, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30703 Filed 11-13-75;8:45 am]

[Docket No. E-8170]

GEORGIA POWER CO.

Revised Rates and Charges Pursuant to Commission Order

NOVEMBER 5, 1975.

Take notice that Georgia Power Company (Georgia Power) on October 16, 1975, tendered for filing Revised Sheet No. 23, Revised Sheet No. 24, Revised Sheet No. 25, Revised Sheet No. 30, Revised Sheet No. 31, Revised Sheet No. 32, and Revised Sheet No. 33 to its FPC Electric Tariff, Original Volume No. 1, pursuant to Commission Order of June 17, 1975 in Docket No. E-8170. Georgia Power avers that the rates and charges and terms and conditions contained in the tendered tariff sheets are those set forth in its Settlement Agreement which were appoved by the Commission in its Order of June 17, 1975. The revised rates and charges and terms and conditions would be made effective as of December 13, 1973, according to the Company.

Georgia Power states that it served copies of the filing on its jurisdictional customers and on all parties appearing on the official service list compiled in the captioned docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-30704 Filed 11-13-75; 8:45 am]

[Project No. 289]

LOUISVILLE GAS & ELECTRIC CO.

Issuance of Annual License

NOVEMBER 5, 1975.

On November 9, 1972, Louisville Gas & Electric Company, Licensee for Ohio Falls Project No. 289, located in Louisville, Jefferson County, Kentucky, at U.S. Corps of Engineers McAlpine Locks and Dam, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 289 was issued effective November 11, 1925, for a period ending November 10, 1975. In order to authorize continued operation and maintenance of the project pending completion of Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Louisville Gas & Electric Company for the continued operation and maintenance of Project No. 289.

Take notice that an annual license is issued to Louisville Gas & Electric Company (Licensee) for the period November 11, 1975, to November 10, 1976, or until either a new license is issued for the project, or the project is taken over, for the continued operation and maintenance of Project No. 289, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30705 Filed 11-13-75;8:45 am]

[Project No. 1000]

LOUISVILLE GAS & ELECTRIC CO.

Issuance of Annual License

NOVEMBER 5, 1975.

On October 21, 1974, Louisville Gas & Electric Company, Licensee for Ohio Falls Transmission Line (66 kV) Project No. 1000, located in Louisville, Jefferson County, Kentucky, filed an application for surrender under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 1000 was issued effective March 12, 1930, for a period ending November 11, 1975. In order to authorize continued operation and maintenance of the project pending completion of Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Louisville Gas & Electric Company for the continued operation and maintenance of Project No. 1000.

Take notice that an annual license is issued to Louisville Gas & Electric Company (Licensee) for the period November 12, 1975, to November 11, 1976, or until the completion of Commission action on Licensee's application for surrender, for the continued operation and maintenance of Project No. 1000, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30706 Filed 11-13-75;8:45 am]

[Docket No. CP75-205]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition To Amend

NOVEMBER 5, 1975.

Take notice that on October 14, 1975, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-205 a petition to amend the order of the Commission issued in said docket July 3, 1975 (54 FPC ——), pursuant to Section 7(c) of the Natural Gas Act to include in the certificate of public convenience and necessity authorization for an additional point of delivery for the exchange of natural gas with Natural Gas Pipe Line Company of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

Petitioner states that by the aforementioned order of the Commission it was authorized to deliver up to 10,000 Mcf of natural gas per day to Natural at a point of delivery in Wheeler County, Texas, in exchange for an equivalent volume of natural gas redelivered by Natural to Petitioner in Hansford County, Texas. Petitioner requests in the instant petition, to amend that it be authorized to deliver gas to Natural's facilities in Beaver County, Oklahoma, from the Trimmell Well No. B.P.-14 in Beaver County, Oklahoma, in exchange for equivalent volumes of gas to be delivered by Natural to Petitioner at the presently authorized point of delivery in Hansford County, Texas. Under the proposed arrangement, Natural would charge Petitioner 1.5 cents per Mcf of gas delivered by Petitioner, and would take 3.0 percent of the gas delivered as compressor fuel utilized to effectuate the exchange.

It is stated that Natural would construct and operate the 3-inch tap connection on its 6-inch lateral in the Carmick Field to effectuate the proposed exchange. Petitioner estimates that the cost of the proposed facilities is approximately $5,100, which costs Petitioner would reimburse Natural.

No change in the authorized daily delivery volume is proposed.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 26, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act

(18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30707 Filed 11-13-75;8:45 am]

[Docket No. ER76-104]

NEW ENGLAND POWER CO.

Completion of Filing

NOVEMBER 5, 1975.

Take notice that on October 10, 1975, New England Power Company (NEPCO) tendered for filing additional information regarding its initial sales agreement with Bangor Hydro-Electric Company (Bangor), Montaup Electric Company (Montaup), New Bedford Gas & Electric Company (NBG&E), and Vermont Electric Power Company, Inc. (VEP). The additional information is cost support data regarding rate of return and cost components of federal income tax, investment and Massachusetts franchise tax.

NEPCO requests an effective date of December 20, 1975, for these contracts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30708 Filed 11-13-75;8:45 am]

[Docket Nos. RP71-107; RP72-127; (PGA No. 76-1 and R&D 76-1)]

NORTHERN NATURAL GAS CO.

Purchased Gas Cost Adjustment Rate Change

NOVEMBER 5, 1975.

Take notice that on October 24, 1975, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.P.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1—Eighth Revised Sheet No. 4a, Third Revised Sheet No. 4b.

Original Volume No. 2—Eighth Revised Sheet No. 1c.

Northern states that Eighth Revised Sheet No. 4a and Third Revised Sheet No. 4b are filed pursuant to Northern's Purchased Gas Adjustment provision of its F.P.C. Gas Tariff, Third Revised Volume No. 1. Northern states that Eighth Revised Sheet No. 1c is filed pursuant to Northern's Purchased Gas Adjustment Clause applicable to Volume No. 2 sales. Northern states that this change in Northern's rates reflects: (1) the increase in Northern's average estimated cost of purchased gas for the Year 1976, as adjusted for the unrecovered cost of purchased gas incurred during the twelve month period ending September 30, 1975, and (2) the deferred cost of purchased gas authorized by the Commission "Order Accepting Alternate PGA Proposal Made Pursuant to Opinion 699-H and Permitting Intervention", Docket Nos. RP71-107 (Phase II) and PGA75-2, issued February 6, 1975. Northern states that the change in rates also reflects a decrease in the cost of Research and Development expenditures estimated for the twelve months ended September 30, 1976, as adjusted for the unrecovered cost incurred during the twelve months ended September 30, 1975. Northern states that the revised tariff sheets provide for a net increase of three and eight hundredths cents (3.08¢) per Mcf in the Commodity portion of Northern's jurisdictional rates, and will result in a total net increase in annual jurisdictional revenues of approximately $16,897,000 for Volume No. 1 sales and approximately $661,000 for Volume No. 2 sales.

Northern proposes that Eighth Revised Sheet No. 4a, Third Revised Sheet No. 4b and Eighth Revised Sheet No. 1c become effective on December 27, 1975.

Northern states that copies of the filing have been mailed to each of the Gas Utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 18, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30709 Filed 11-13-75;8:45 am]

[Docket No. CP75-287]

NORTHWEST PIPELINE CORP.

Petition To Amend

NOVEMBER 5, 1975.

Take notice that on October 22, 1975, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-287 a petition to amend the order of the Commission of September 26, 1975, issued in said docket pursuant to Section 7(c) of the Natural Gas Act to include authorization in the certificate of public convenience and necessity issued therein the sale and delivery of 71,800 Mcf of gas per day on a best-efforts basis, pursuant to Applicant's Storage Gas Service Rate Schedule SGS-1, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Applicant states that by the order of the Commission of September 26, 1975, it was authorized to increase its firm winter service under Rate Schedule SGS-1 up to 300,000 Mcf per day and up to 9,300,000 Mcf per winter season from operation of Applicant's Jackson Prarie Storage Field. Applicant requests authorization in its instant petition to amend to sell and deliver on a best efforts basis, up to an additional 71,800 Mcf of natural gas per day from the Jackson Prarie Storage Field, for the period commencing November 1, 1975, through April 15, 1976, and each subsequent heating season commencing October 16 through April 15 of the following year. Applicant would increase from 300,000 Mcf to 371,800 Mcf the maximum daily delivery quantity, but does not propose to increase the seasonal quantity, which is said to be 9,300,000 Mcf.

Applicant proposes the following allocation to each of its customers purchasing service pursuant to Applicant's Rate Schedule SGS-1, which is said to be in proportion with each individual customers contract demand as authorized by the order of the Commission of September 26, 1975:

	Present and proposed contract demand (thousand cubic feet)		
	Present	71,800 M ft³/d, best efforts	Total
California-Pacific Utilities Co	4,229	1,015	5,244
Cascade Natural Gas Co.	26,714	6,395	33,109
Intermountain Gas Co.	22,314	5,342	27,656
Northwest Natural Gas Co.	37,076	8,874	45,950
Peoples Natural Gas, Division of Northern Natural Gas Co.	724	172	896
Southwest Gas Corp.	8,942	2,135	11,077
Washington Natural Gas Co. and the Washington Water Power Co., jointly	200,004	47,867	247,808
Total	300,009	71,800	371,809

Applicant states that no additional facilities are required to institute the

proposed service, and Washington Natural Gas Company, as operator has informed Applicant that it can withdraw and deliver to Applicant the volumes proposed through existing facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 24, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30710 Filed 11-13-75;8:45 am]

[Docket No. CP76-130]

NORTHWEST PIPELINE CORP.

Notice of Application

NOVEMBER 5, 1975.

Take notice that on October 14, 1975, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76-130 an application pursuant to Section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1976, and operation of certain natural gas purchase facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with Applicant's pipeline system or other pipelines authorized to transport gas for or exchange gas with Applicant.

The total estimated cost of the proposed facilities would not exceed $9,000,000, and the cost of a single project would not exceed $1,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 25, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30711 Filed 11-13-75;8:45 am]

[Docket No. CP76-149]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

NOVEMBER 10, 1975.

Take notice that on October 31, 1975, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77001, filed in Docket No. CP76-149 an application pursuant to Section 7 of the Natural Gas Act, as amended, the Rules and Regulations of the Federal Power Commission issued thereunder and Section 2.79 of the Commission's General Policy and Interpretations for a certificate of public convenience and necessity authorizing Transco to transport a quantity of natural gas estimated to average 350 Mcf per day on an interruptible basis for Knit-Away, Inc. (Knit-Away), an existing industrial customer of North Carolina Natural Gas Corporation (NCN), a Transco CD-2 customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that the gas will be purchased by Knit-Away from production in Gilmer and Upshur Counties, West Virginia and delivered to Transco at an existing point of interconnection on the pipeline systems of Columbia Gas Transmission Corporation and Transco. Transco will redeliver the transportation volumes by displacement to existing points of delivery to NCN for the account of Knit-Away. Knit-Away will pay Transco an initial charge of 8.75 cents per Mcf delivered to NCN for Knit-Away's account.

The application states that the gas is intended for high-priority process use in Knit-Away's Raeford and Mt. Gilead, North Carolina plants.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be presented at hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30838 Filed 11-13-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[No. 337-TA-7]

CERTAIN ELECTRONIC AUDIO AND OTHER RELATED EQUIPMENT

Redesignation of Prehearing Conference and Proposed Protective Order Relating to Confidential Documents and Information

It is hereby ordered as follows: 1. That the United States International Trade Commission will hold a prehearing conference in connection with Investigation No. 337-TA-7, Certain Electronic Audio and Other Related Equipment, on Wednesday, November 19, 1975, at 10:00 a.m., EST, in the Hearing Room of the United States International Trade Commission Building, 701 E Street, Northwest, Washington, D.C. 20436.

This order hereby revokes the November 12, 1975, prehearing conference date set for this investigation in its Notice of Hearing which was issued on October 29, 1975, by the International Trade Commission.

2. During the course of the prehearing conference counsel or other representatives for all parties to this investigation must be prepared to consider any or all of the following—

a. Simplification and clarification of the issues in this investigation;
b. Scope of the hearing including statements describing the evidence which each participant proposes to present at the hearing;
c. Stipulations, admissions of fact, contents and authenticity of documents;
d. Proposed schedules for the completion of prehearing discovery;
e. Disclosure of names and witnesses and the exchange of documents or other physical exhibits which will be introduced in evidence in the course of the hearing;
f. Dates for trial briefs.

3. Within 5 days of the receipt of this order, counsel for all parties to this investigation must comment upon the attached proposed Protective Order Relating to Confidential Documents and Information.

Issued: November 10, 1975.

[SEAL] DANIEL MINCHEW,
Presiding Commissioner.

[FR Doc.75-30815 Filed 11-13-75;8:45 am]

[332-76]

U.S.-CANADIAN AUTOMOTIVE AGREEMENT

Change of the Date of Public Hearing

Notice is hereby given that the public hearing to be held in connection with United States International Trade Commission Investigation No. 332-76, U.S.-Canadian Automotive Agreement, in Detroit, Michigan is postponed from 10 a.m. EST on Tuesday, November 18, 1975, to 10 a.m., EST on Thursday, December 11, 1975. The hearing will be held in Courtroom 859 of the Federal Building, 231 West Lafayette Street. Requests for appearances at the hearing should be received by the Secretary of the Commission at his office in Washington, D.C., no later than noon on December 4, 1975.

Notice of Investigation and Hearing was published in the FEDERAL REGISTER on Monday, September 8, 1975 (40 F.R. 41565).

By order of the Commission.

Issued: November 11, 1975.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.75-30731 Filed 11-13-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUPS ON ANTICIPATED ADVANCES IN SCIENCE AND TECHNOLOGY AND CONTRIBUTIONS OF TECHNOLOGY TO ECONOMIC STRENGTH

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Group on Anticipated Advances in Science and Technology and Advisory Group on Contributions of Technology to Economic Strength.

Date: December 1 and 2, 1975.

Time: 9:30 a.m. to 4 p.m. each day.

Place: New Executive Office Building, 726 Jackson Place, NW., Rm. 2010, Washington, D.C.

Type of meeting: Open.

Contact person: Mr. William Montgomery, Special Assistant, Science and Technology Policy Office, Rm. 602, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-8914. Anyone who plans to attend should contact Mr. Montgomery by November 27.

Summary Minutes: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Rm. 248, National Science Foundation, Washington, D.C. 20550.

Purpose of Advisory Groups: The Advisory Group on Anticipated Advances in Science and Technology was established on November 13, 1975, to provide advice on developments that may take place in science and engineering and examine the national policy implications of these developments.

The Advisory Group on Contributions of Technology to Economic Strength was established on November 13, 1975, to provide advice on issues that may lead to policy supporting an improved utilization of technology and fostering economic strength.

Both groups are to consider these subjects in a manner which will facilitate planning for the proposed Office of Science and Technology Policy.

The Committee Management Secretariat, OMB, has waived the requirement of 15 days publication of the Notice of Determination in the FEDERAL REGISTER prior to the groups' establishment.

TENTATIVE AGENDA

DECEMBER 1

Welcome and Introductory Remarks by the Chairmen.
Review of principal environments in which science and technology policy will operate.

DECEMBER 2

Review of ongoing activity related to the advisory groups' charters.
Discussion of work plan and future advisory group activities.

GAIL A. MCHENRY,
Acting Committee Management Officer.

NOVEMBER 12, 1975.

[FR Doc.75-30900 Filed 11-13-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 11, 1975 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

SMALL BUSINESS ADMINISTRATION

Timber Set-Aside Program, single-time, bidders on national forest timber sales, Lowry, R. L., 395-3772.

GENERAL SERVICES ADMINISTRATION

Quarterly Report of Construction Contractor's Employment, GSA 2918, quarterly government construction contractors, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education, EBCE Evaluation Questionnaires, NIE 128A-J, other (see SF-83), individuals, Human Resources Division, Raynsford, R., 395-3532.
Office of Education, Application for Assistance under Emergency School Aid Act, Title VII, Pub. L. 92-318 as amended by Pub. L. 93-380 (NPOS); OE-116, annually, nonprofit organizations, Lowry, R. L., 395-2772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Location of Sewer Moratorium Jurisdictions, single-time, local chapters of Nat'l Housing Industry, Organizations, Human Resources Division, Ellett, C. A., 395-3532.

REVISIONS

VETERANS ADMINISTRATION

Report of Home Loan Processed on Automatic Basis, 26-1820, on occasion, lenders, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Prices Paid by Farmers for feed, monthly, feed dealers, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Social Security Administration, Application for Medical Insurance, SSA-40A, on occasion, applicants for supplemental medical insurance under medicare, Caywood, D. P., 395-3443.
Office of Education, Institutional Application and Nomination for a National Teaching Fellowship, OE 1131, on occasion, prospective faculty members with Master's degree minimum, Lowry, R. L., 395-3772.

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Individual Grant Application, NEA-2(REV), on occasion, individuals, Marsha Traynham, 395-4529.

Project Grant Application, NEA–3, on occasion, charitable and educational organizations, Marsha Traynham, 395–4529.

FEDERAL RESERVE SYSTEM

Survey of changes in bank lending practices, FR 18, quarterly, selected banks in 35 SMSA's, Marsha Traynham, 395–4529.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service: Monthly Report of Manufacture and Shipment of Snuff, Smoking, and Chewing Tobacco, TB–39, quarterly, Tobacco manufacturers, Marsha Traynham, 395–4529.

Statistical Reporting Service: Prices Paid by Farmers for Petroleum, Motor Supplies and Services, CE 5–801, quarterly, stores and stations that sell the products, Strasser, A., 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: Extended Care Facility Statement of Reimbursable Cost—Reimbursable Cost on Dept. RCCAC Method, SSA–1751, annually, skilled nursing facilities, Marsha Traynham, 395–4529.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management: Desert Land Entry Final Proof (Witnesses To Desert Land Entry), 2226–5, on occasion, individuals, Lowry, R.L., 395–3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75–30837 Filed 11–13–75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–11816; File No. SR–1]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Notice of Consent To Deferral of Commission on Certain Rule Changes of the National Association of Securities Dealers, Inc.

On March 21, 1975, the National Association of Securities Dealers, Inc., (the "NASD") filed with the Commission proposed Article XVIII of the By-Laws of the NASD, and Schedule G thereunder (the "NASD Rule Changes"), governing: (i) the reporting of transactions in eligible securities in the consolidated transaction reporting system (the "consolidated system") contemplated by Rule 17a–15 under the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975 (the "Act"); (ii) charges to cover the costs of compliance with such reporting requirements; and (iii) antimanipulative rules relating to over-the-counter trading in such securities.

The provisions of Schedule G were amended by the NASD and refiled with the Commission on June 4, 1975. The NASD Rule Changes were deemed by the Commission to have been filed under new Section 19(b) of the Act. In view of the need to implement the NASD Rule Changes immediately to permit the scheduled commencement of the consolidated system on June 16, 1975, the Commission ordered the NASD Rule Changes into effect summarily pursuant to Section 19(b)(3)(B) of the Act on June 11, 1975. Notice of that action was provided by Securities Exchange Act Release No. 11461 (June 11, 1975), published in the FEDERAL REGISTER on June 18, 1975 (40 FR 25730). That release also solicited public comment on the NASD Rule Changes.[1] On July 21, 1975, the Commission received the NASD's consent to an extension of the time within which the Commission was required, under Section 19(b)(2) of the Act, either to approve the NASD Rule Changes or to institute proceedings to determine whether they should be disapproved, to September 15, 1975. In view of the complexity and the significance of the NASD Rule Changes, the Commission determined to extend the time for the submission of comments by interested persons on the NASD Rule Changes until August 22, 1975. Notice of that action was provided by Securities Exchange Act Release No. 11546 (July 23, 1975), published in the FEDERAL REGISTER on July 30, 1975 (40 FR 32000). On September 10, 1975, the Commission received a further consent from the NASD to an extension of time within which the Commission is required to take action under Section 19(b)(2) of the Act, to November 15, 1975. Notice of that action was provided by the Securities Exchange Act Release No. 11653 (September 15, 1975), published in the FEDERAL REGISTER on September 19, 1975 (40 FR 43284). Additionally, the period for the submission of comments was extended until October 1, 1975.

On November 5, 1975, the Commission received the consent of the NASD to an extension of time within which the Commission is required, under Section 19(b)(2) of the Act, either to approve the NASD Rule Changes or to institute proceedings to determine whether they should be disapproved, to February 2, 1976. The Commission understands that the reason the NASD has consented to this further extension of time within which the Commission must take action is that the NASD intends, pursuant to Rule 19b–4 under the Act, to file with the Commission modifications of certain of the NASD Rule Changes. The Commission acknowledges the consent of the NASD to extension of the deadline until February 2, 1976.[2]

The Commission emphasizes that, until the Commission takes further action with respect to the NASD Rule Changes, the NASD Rules Changes remain in full effect as a consequence of the Commission's summary action on June 11, 1975, referred to above.[3]

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 10, 1975.

[FR Doc.75–30734 Filed 11–13–75;8:45 am]

[1] The deadline for submission of written comments (pursuant to Securities Exchange Act Release No. 11461 (June 11, 1975) was June 30, 1975; the time for such comment was extended until July 18, 1975, in Securities Exchange Act Release No. 11508 (June 30, 1975).

[2] The Commission recognizes, however, the urgency of resolving the regulatory issues presented by the NASD Rule Changes, and will endeavor to take appropriate action as soon as possible after receipt of the NASD modifications.

[3] Securities Exchange Release No. 11461 (June 11, 1975).

[Release No. 34–11815; File No. SR–NYSE–75–8]

NEW YORK STOCK EXCHANGE, INC.
Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 24, 1975, the above-mentioned self-regulatory organization filed with the Securites and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

"The proposed rule change is entitled "Market Responsibility Rule"; the text is as follows:

(a) Except as otherwise provided by this Rule, no member, member organization, or other person who is a securities broker or dealer and who directly or indirectly, controls, is controlled by, or is under common control with, a member or member organization (any such other person being hereinafter referred to as an affiliated person) shall effect any transaction in any listed stock (as hereinafter defined) in the over-the-counter market, either as principal or agent.

(b) A member, member organization or affiliated person holding a customer's order (the Order) for the purchase or sale of a listed stock may, if he or it believes that a better price may be obtained for the customer, execute the Order with a non-member securities broker or dealer in the over-the-counter market (or such portion thereof as may be so executed in accordance with this Rule); provided such member, member organization or affiliated person assures, immediately before the execution of any portion of the Order in the over-the-counter market, that

(i) All public bids or offers on the specialist's book or represented in the Crowd at prices which, insofar as the Order is concerned, are equal to or better than the price at which such portion of the Order is proposed to be executed over-the-counter are satisfied at the price at which such portion of the Order is so proposed to be executed, and

(ii) All bids or offers by the specialist for his own account or by any other member or member organization in the Crowd for his or its own account, or for an affiliated person's own account, at prices which, insofar as the Order is concerned, are better than the price at which such portion of the Order is proposed to be executed over-the-counter are satisfied at the prices bid or offered by such member, member organization or affiliated person. Notwithstanding the provisions of Rule 104, the specialist when trading for his own account pursuant to this clause (ii) may buy on a plus or zero plus tick or sell on a minus or zero tick any or all of the

stock which is to be sold or purchased over-the-counter.

(c) Each member, member organization or affiliated person executing any portion of an Order in the over-the-counter market as provided in subparagraph (b) of this Rule shall prior to the close of business on the first succeeding trading session file a report with the Exchange listing all parties to the transaction, the amount of participation of each, the price or prices at which any portion of the Order was executed, the time of receipt of the Order, and the time of any over-the-counter execution of any portion thereof.

(d) The provisions of this Rule shall not apply to any of the following transactions:

(i) Any transaction which is part of a primary distribution by an issuer, or a registered or unregistered secondary distribution, effected off the Floor of the Exchange;

(ii) Any transaction made in reliance on Section 4(2) of the Securities Act of 1933;

(iii) Any trade at a price unrelated to the current market for the security to correct an error or to enable the seller to make a gift;

(iv) Any transaction pursuant to a tender offer;

(v) Any purchase or sale of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a preestablished consideration unrelated to the current market for such securities;

(vi) Any purchase or sale of any security trading in which has been suspended by the Exchange pending review of the listing status of such security;

(vii) The acquisition of securities by a member organization as principal in anticipation of making an immediate special offering or exchange distribution on the Exchange under Rule 391 or Rule 392;

(viii) Any purchase or sale of any of the guaranteed or preferred stocks included within the listing of such stocks as may from time to time be issued by the Exchange, *provided, however*, that every proposed transaction in any such security by a member, member organization or affiliated person should be reviewed in light of the factors involved, including the market on the floor of the Exchange, the price, and the size, so that whenever possible the transaction may be effected on the floor; and

(ix) any other purchase or sale of any security under extraordinary or emergency conditions which receives the prior approval of the Exchange.

(e) The term "listed stock" as used in this Rule shall mean any security registered on the Exchange (other than subscription rights), the sale prices of transactions in which are reported on the consolidated tape provided for in the plan filed by the Exchange and others pursuant to Rule 17a-15 under the Securities Exchange Act of 1934 and declared effective by the Securities and Exchange Commission.

(f) The price at which a transaction is effected, whether on the Exchange or in the over-the-counter market, shall, for purposes of this Rule, mean the price of such transaction, exclusive of any commission, commission equivalent, differential, tax or other charge applicable thereto."

PURPOSE OF PROPOSED RULE CHANGE

"The purpose of the Market Responsibility Rule is to:

(a) Provide that, except as permitted by the provisions of the Market Responsibility Rule, no member, member organization or securities broker or dealer affiliated with a member or member organization (an affiliated person) may buy or sell, as principal or agent, any listed stock (as defined in the Market Responsibility Rule) in the over-the-counter market;

(b) Simplify the process by which, and state the conditions under which, a member or member organization of the Exchange or an affiliated person is permitted to execute his or its customers' orders to purchase or sell a listed stock in the over-the-counter market where the member, member organization or affiliated person believes that a better execution of such order for the customer is available in the over-the-counter market than is currently available on the Exchange; and

(c) State the types of transactions which will be exempt from the provisions of the Market Responsibility Rule and define certain terms used therein."

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

"(a)(i) The Market Responsibility Rule does not relate to the Exchange's capacity to carry out the purposes of the Act or to enforce compliance by its members and persons associated with its members, with the Act or the rules and regulations thereunder, except that the Market Responsibility Rule includes a reporting requirement which is designed to permit the Exchange to enforce compliance with the Market Responsibility Rule by its members, member organizations and affiliated persons.

(ii) Not applicable.

(iii) Not applicable.

(iv) Not applicable.

(v) The Exchange believes that the Market Responsibility Rule will serve to promote just and equitable principles of trade, to remove impediments to and assist in the perfection of a free and open market and a national market system and to protect investors and the public interest. The Market Responsibility Rule will promote these objectives by freely permitting members, member organizations and affiliated persons to execute customers' orders in listed securities in the over-the-counter market whenever the best price for their customers is available in that market, while at the same time preserving the benefits of the auction market provided by the Exchange.

Under the Market Responsibility Rule all principal trades, except as exempt by the Rule, are required to take place on the Floor of the Exchange or another national securities exchange. This is a continuation of the longstanding policy articulated in Rule 394 and is designed to preclude the creation of off-board dealer markets in listed stocks by members, member organizations and affiliated persons, thereby avoiding serious erosion in the present flow of orders to the auction market. Absent such a provision, the Exchange believes that dealer markets in listed securities would proliferate, to the serious detriment of the auction market provided by the Exchange. The resultant erosion in the flow of orders to the Exchange would seriously undermine the liquidity and depth provided by the auction market, to the direct detriment of investors and the public interest. By preventing further fractionalization of exchange markets, the new Market Responsibility Rule will materially ease the task of creating a national market system. Should such fractionalization occur such task will surely be immensely complicated, the Exchange believes.

By simplifying the process by which a member or member organization is permitted to execute his or its customers' orders in the over-the-counter market whenever a better execution is available for the customer in that market, the Market Responsibility Rule encourages competition between dealers in the over-the-counter market and those on the Exchange, including the specialist. It does this by permitting the broker holding a customer's order to execute that order with whichever dealer provides his customer with the best execution, regardless of the market in which the dealer operates. To the extent that the present provisions of Rule 394 have been considered by some to impede the ability of members and member organizations to trade with market makers in the third market, the new Market Responsibility Rule, by removing all such impediments, will serve to promote creation of a free and open market.

In all of these respects the Market Responsibility Rule will serve to protect investors and the public interest."

(vi) Not applicable.

(vii) Not applicable.

(viii) Not applicable.

(b) and (c) Not applicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

"By letter addressed to its members and allied members dated October 17, 1975, the Exchange announced the adoption of the Market Responsibility Rule by its Board of Directors. As announced in that letter, the Market Responsibility Rule, as adopted by the Board, contained three changes from the text of an earlier draft of the Rule which had been sent to members and allied members by letter dated October 8. The changes resulted from comments received from the membership in response to the October 8 letter. The comments and the changes resulting therefrom were as follows:

(a) In response to a comment that the earlier draft of the proposed Market Responsibility Rule did not make clear that any over-the-counter execution should be with nonmember securities brokers or dealers, the text of paragraph (b) of the Market Responsibility Rule as adopted by the Board was amended to make this point clear.

(b) In response to the suggestion that the list of exempt transactions included in paragraph (d) of the earlier text of the proposed Market Responsibility Rule was incomplete, two additional exemptions were added, the first (contained in (d)(vi)) exempting the purchase or sale of any security trading in which has

been suspended by the Exchange pending review of the listing status of such security, and the second (contained in (d)(vii)) exempting the acquisition of securities by a member organization as principal in anticipation of an immediate special offering or Exchange distribution as permitted under Rule 391 or Rule 392 of the Exchange.

In addition to the foregoing, it has also been suggested that the Market Responsibility Rule should not apply to any transaction for an account managed by an affiliated person which is a broker or dealer registered with the Commission under the Act and acts as underwriter or principal distributor of shares issued by an investment company registered under the Investment Company Act of 1940.

Finally, various questions have been raised with respect to the manner in which, and whether or not, the Market Responsibility Rule would apply to transactions in listed stocks effected by members or member organizations outside the continental limits of the United States or any possession thereof. This matter may be considered further by the Board of Directors of the Exchange and the Board may determine to amend the Market Responsibility Rule as a result of such further consideration. However, unless and until so amended, the Rule would not apply to any person insofar as he transacts business in securities without the jurisdiction of the United States."

BURDEN ON COMPETITION

"No burden on competition will be imposed by the Market Responsibility Rule. In fact one of the main purposes of the Market Responsibility Rule is to remove those provisions of the present Rule 394 which some have criticized as impediments to the free use of the third market by members and member organizations of the Exchange in effecting transactions in listed stocks for their customers. The Exchange in its appearance on October 22, 1975 before the Commission in the hearings announced by Release No. 11628 dated September 2, 1975 under the Act, submitted an analysis concerning off-board trading rules (marked in such proceedings as "NYSE Exhibit 1"). That analysis sets forth the Exchange's position with respect to off-board trading rules in general; explains why the Exchange does not believe that its off-board trading rules impose any burden on competition, but, on the contrary, serve to enhance pricing competition, which, from a public interest point of view, is the central issue to be considered in analyzing off-board trading rules under the standards set forth in the Act. That analysis also discusses the Market Responsibility Rule in the context of the standards set forth in the Act and concludes that such Rule, by permitting a maximum level of competition among brokers, dealers and exchanges, is consistent with each of the regulatory goals cited by the Commission and discussed in the analysis."

COMMISSION ACTION

Section 11A(c)(4)(A) of the Act directs the Commission to review rules of national securities exchanges (including NYSE Rule 394) which limit or condition the ability of members to effect transactions otherwise than on such exchanges ("off-board trading rules"), to report to Congress the results of its review, including a description of the effects on competition of such rules, and to commence a proceeding, in accordance with Section 19(c) of the Act, to amend or abrogate any such off-board trading rule imposing a burden on competition which does not appear to be necessary or appropriate in furtherance of the purposes of the Act. The Commission has completed its review and reported its finding to Congress.[1]

The Commission concluded that off-board trading rules of exchanges impose burdens on competition. Accordingly, the Commission commenced a proceeding, pursuant to Section 19(c) of the Act, to determine

(i) The extent to which such rules do engender significant anticompetitive effects;

(ii) Whether, although such rules are anticompetitive, there are countervailing considerations which appropriately outweigh the need to abrogate or amend such rules at the present time; and

(iii) Whether such rules could be appropriately modified so as to further the purposes of the Act.

In conjunction with that proceeding, the Commission held oral hearings. On October 22, 1975, the NYSE introduced its proposed replacement of NYSE Rule 394 as an exhibit in connection with its testimony at those hearings.[2] Accordingly, the NYSE's proposal is currently being considered by the Commission as part of the off-board trading rules proceeding.

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within fifteen days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

NOVEMBER 10, 1975.

[FR Doc.75-30733 Filed 11-13-75;8:45 am]

[1] Securities Exchange Act Release No. 11628 (September 2, 1975); Commission File No. 4-180.

[2] See *In the Matter of Rules of National Securities Exchanges Which Limit or Condition the Ability of Members To Effect Transactions Otherwise Than on Such Exchanges*, Commissoin File No. 4-180 (October 22, 1975) 1115.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1172; Amdt. No. 1]

FLORIDA

Declaration of Disaster Area

The above numbered Declaration (See 40 FR 41206) for the State of Florida is amended by extending the time for filing applications to November 28, 1975, for physical damage and June 28, 1976, for economic injury.

Dated: November 5, 1975.

LOUIS F. LAUN, *Acting Administrator.*

[FR Doc.75-30721 Filed 11-13-75;8:45 am]

[Declaration of Disaster Loan Area No. 1187; Amendment No. 3]

NEW YORK

Declaration of Disaster Area

The above numbered Declaration (See 40 FR 48558), amendment #1 (See 40 FR 49825) and 2 (See 40 FR 51101) are amended by adding Yates and adjacent counties within the State of New York, and the time for filing applications is extended to December 29, 1975, for physical damage and July 30, 1976, for economic injury.

LOUIS F. LAUN, *Acting Administrator.*

Date: November 5, 1975.

[FR Doc.75-30722 Filed 11-13-75;8:00 am]

DEPARTMENT OF LABOR

Manpower Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guar-

antees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924 (b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75, published January 29, 1975 (40 FR 4393). In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Manpower, 601 D Street, NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 11th day of November, 1975.

BEN BURDETSKY,
Deputy Assistant Secretary for Manpower.

Applications received during the week ending Nov. 7, 1975

Name of applicant	Location of enterprise	Principal product or activity
Saint Francis College, Inc.	Biddeford, Maine	Undergraduate college.
Florida Containers, Inc.	Sebring, Fla.	Expanded polystyrene egg cartons.
Olin L. Gammage & Sons Funeral Home, Inc.	Cedartown, Ga.	Funeral home.
Craftmade Homes, Inc.	Sylvester, Ga.	Mobile homes.
Louis Rich, Inc.	West Liberty, Iowa, and Newberry, S.C.	Processed poultry (turkey).
Pavco Industries, Inc.	Pascagoula, Miss.	Prefinished hardwood paneling, sanded hardwoods, and wholesale carpeting.
Blue Ridge Cottage Industries, Inc.	Boone, N.C.	Manufacturing, finishing, packaging, and shipping of planter baskets and floral accessories.
Triangle Machine Co., Inc.	Heath Springs, S.C.	Machined metal parts.
The Peoples Publishing Co., Inc.	Hartsville, S.C.	Newspaper publishing and commercial printing.
Norman H. Kelly, d.b.a. Kelly Funeral Home.	Jefferson, S.C.	Funeral home.
Boyd Maxwell d.b.a. DeKalb Sales and Services.	Smithville, Tenn.	Automotive parts.
Charles Knitting Mills, Inc.	Rhea County, Tenn.	Men's and ladies' knitwear.
Findlay Marina	Findlay, Ill.	Boat sales and service, dockage facilities.
R. & J. Land Co.	Chisholm, Minn.	Restaurant.
Enger Kress Co.	West Bend, Wis.	Leathergoods.
Iron Inn, Inc.	Iron River, Mich.	Hotel with restaurant.
Batson Lumber Co., Inc.	Natalbany, La.	Manufacturing southern pine lumber.
Calorific Recovery Anerobic Process, Inc.	Texas County, Okla.	Methane gas plant.
Tex Goober Co.	Naples, Tex.	Peanuts.
Calvin W. Williams (Winberry)	Hearne, Tex.	Shopping center.
Brown Trencher Division; Rivinius, Inc.	Woodbine, Iowa	Snow removal and trencher equipment manufacturer.
Arnold Grain & Feed Inc.	Montgomery, Iowa	Farm service center.
Meiferd Industries, Inc.	Laurens, Iowa	Articulated arm hoists, leveling systems for flamecutting.
Apollo Hollow Metal & Hardware Co.	Laclede, Mo.	Fabrication and distribution of metal door frames.
Agri-Foods Inc.	Hawk Point, Mo.	Egg processing plant.
Hilton Inn/Teton National Park	Teton Village, Wyo.	Hotel.
Dakota Bake-N-Serv, Inc.	Jamestown, N. Dak.	Frozen dough products.
Blackfoot Equipment Co.	Blackfoot, Idaho	Sales and service of farm equipment.
B. Roger Clark, Bayview Manufacturing Co.	North Bend, Oreg.	Manufacturing of novelties.

[FR Doc.75-30798 Filed 11-13-75;8:45 am]

Office of the Secretary

[TA-W-132]

AMBAC INDUSTRIES, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-132; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 4, 1975 in response to a worker petition received on September 4, 1975 which was filed by the International Union of Electrical Radio and Machine Workers on behalf of workers formerly producing fuel injection systems at American Bosch, Springfield, Massachusetts, a wholly owned subsidiary of AMBAC Industries, Incorporated, Garden City, Long Island, New York.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 42617) on September 15, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of AMBAC Industries, Incorporated, American Bosch, its customers, U.S. Department of Commerce, U.S. International Trade Commission, the Federal Reserve Board, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 4.5 percent from the first quarter of 1975 to the second quarter of 1975, and 7.6 percent from the second quarter of 1975 to the third quarter of 1975.

Sales or Production, or Both, Have Decreased Absolutely. Sales of fuel injection systems adjusted for price increases at the American Bosch plant declined 3.3 percent from the first to the second quarter and 12.8 percent from the second to the third quarter of 1975.

Increased Imports Contributed Importantly. The value of imports of articles like or directly competitive with those produced at American Bosch increased from 17.6 million dollars in 1973 to 37.3 million dollars in 1974.

The ratios of imports to domestic consumption and production increased from

17.2 percent and 20.1 percent, respectively in the first half of 1974 to 23.8 percent and 30.1 percent in the first half of 1975.

The evidence developed by the Department's investigation indicates that foreign suppliers are producing a substantially indentical fuel injection system to that produced at American Bosch. Consequently, price has become the main market determinate. Because of lower manufacturing costs, imported systems sell for about 20 percent less than American Bosch's product. In the last 12 months, approximately 30 percent of the company's sales have been lost to imports.

The declining trend in sales is expected to worsen, as sales being made now represent orders placed nearly 90 days ago. Customers' orders have continued to decline throughout 1975, a trend which should be reflected in fourth quarter 1975 sales figures.

In 1975, American Bosch lost 80 percent of orders from its largest customer to imported fuel injection systems. During 1975, this customer had accounted for 40 percent of American Bosch's sales.

Another major customer of American Bosch is considering switching to imports for more favorable prices. Since 1971, a German manufacturer of fuel injection systems directly competitive with those produced in Springfield has cut increasingly into American Bosch's orders.

Lower competitive prices of imported fuel injection systems reduced American Bosch's penetration of the market. This resulted in production cutbacks, beginning at the close of the first quarter of 1975. As customer orders continued to decline, additional cutbacks were made. Sales were made from existing inventory to decrease stock levels. Average employment decreased in February, March, and April 1975 in anticipation of production declines. Employment declined greatly in the third quarter of 1975, following a substantial decline in customer demand.

Therefore it is concluded that reduced demand caused by the increasing importance of the imported fuel injection systems in the domestic market, contributed importantly to the total or partial separations of workers at American Bosch, Springfield, Massachusetts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fuel injection systems produced at American Bosch, Springfield, Massachusetts contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework, and salaried workers engaged in employment related to the production of fuel injection systems at the Springfield, Massachusetts plant of American Bosch who became totally or partially separated from employment on or after February 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of November 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-30810 Filed 11-13-75;8:45 am]

[TA-W-137]

ARMCO STEEL CORP. BALTIMORE, MARYLAND

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-137; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 9, 1975 in response to a worker petition received on September 4, 1975 which was filed by the United Steel Workers of America on behalf of workers formerly producing stainless steel at the Baltimore plant of Armco Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 42921) on September 17, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corporation, its customers, industry analysts, information and publications of the U.S. International Trade Commission, the U.S. Department of Commerce and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 41 percent in the first half of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales at the Baltimore plant declined 29 percent by value in the first half of 1975 compared to the first half of 1974. Production declined 39 percent by quantity in the first half of 1975 compared to the first half of 1974.

Increased Imports Contributed Importantly. Imports of articles like or directly competitive with those produced at the Baltimore plant of Armco Steel Corporation increased from 63.5 thousand tons in the first half of 1974 to 99.5 thousand tons in the first half of 1975.

The ratios of imports to domestic consumption and production increased from 8.5 percent and 9.1 percent, respectively in the first half of 1974 to 20.7 percent and 25.8 percent in the first half of 1975.

The evidence developed by the Department's investigation indicates that as prices of imported stainless steel became more atractive to consumers in the U.S. they switched from the domestic product to the imported product. In 1975, customers of Armco Steel Corporation found imported prices attractive and switched their purchases from stainless steel products made at the Baltimore plant to imported stainless steel. Separations of workers at the Baltimore plant were caused by the increase of competitive imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel produced at the Baltimore plant contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All hourly and salaried workers engaged in employment related to the production of stainless steel at the Baltimore plant of Armco Steel Corporation who became totally or partially separated from employment on or after December 22, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 1st day of November 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-30811 Filed 11-13-75;8:45 am]

[TA-W-136]

AVON SOLE CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-136: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 8, 1975 in response to a worker petition received on September 4, 1975 which was filed by workers formerly producing rubber soles, soling sheets and heels at the Avon, Massachusetts plant of the Avon Sole Company.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 42806) on September 16, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from former officials of Avon Sole Company, its customers, Department of Commerce, International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Employment was stable from July, 1972 through March, 1974. Beginning in April, 1974, the number of hourly employees declined steadily. During the first seven weeks of 1975, the average number of production workers was 51.7 percent lower than it had been during the first seven weeks of 1974. The average number of weekly hours per worker during the first seven weeks of 1975 was 8.2 percent lower than it had been during the same period in 1974. By March 15, 1975; all production employees had been laid off and production ceased.

Sales or Production, or Both, Have Decreased Absolutely. Sales at the Avon, Massachusetts plant were 16.7 percent lower in 1974 than they had been in 1973. Sales declined 43.3 percent in the first quarter of 1975 compared to the first quarter of 1974. The plant closed on March 15, 1975.

Increased Imports Contributed Importantly. Imports of rubber heels amounted to less than one percent of domestic consumption and production in every year from 1971 through 1974. Imports of rubber soles amounted to less than two percent of domestic consumption and production in every year from 1971 through 1974. Imports of soling sheets amounted to 6.5 percent and 7 percent respectively of domestic consumption and production in 1974.

The evidence developed in the Department's investigation indicates that the separation of workers engaged in the production of rubber soles, soling sheets and heels at Avon Sole Company in Avon, Massachusetts was due to the transfer of production to a wholly-owned subsidiary in Lawrenceburg, Tennessee. This transfer was due to increasing costs of production at the Massachusetts facility. Major customers of Avon had not switched their purchases to another manufacturer, foreign or domestic.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with rubber soles and soling sheet produced at the Avon, Massachusetts plant did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 4th day of November 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-30807 Filed 11-13-75;8:45 am]

[TA-W-148]

BILLIG SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-148; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 16, 1975 in response to a worker petition received on September 15, 1975 which was filed by the United Steelworkers of America on behalf of workers formerly producing women's footwear at Billig Shoe Company, Peckville, Pennsylvania, a wholly owned subsidiary of EVY Footwear Company, Incorporated, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 44211) on September 25, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Billig Shoe Company, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, the American Footwear Industries Association and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separations, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Total or partial separations of workers engaged in employment related to the production of women's footwear at Billig Shoe Company began in late 1974. Average employment declined 13.5 percent in the fourth quarter of 1974 from the previous quarter. The average number of workers declined 26 percent in the second quarter of 1975 from the like period in 1974. Hours worked by all employees of Billig were reduced during the first eight months of 1975. Average weekly hours declined 8.2 percent in the first eight months of 1975 from the comparable period in 1974. All production at Billig Shoe Company was terminated and all production workers were separated on September 30, 1975.

Sales or Production, or Both, Have Decreased Absolutely. Sales at Billig Shoe Company declined 18.9 percent from 1973 to 1974. Production of women's footwear at Billig declined 23.9 percent in the first half of 1975 compared to the like period in 1974. Declining sales and the ensuing production cutbacks forced EVY Footwear to close Billig and consolidate operations at their other plants.

Increased Imports Contributed Importantly. Imports of articles like or directly competitive with those produced at Billig Shoe Company increased from 167 million pair in 1970 to 189 million pairs in 1974. The ratios of imports to consumption and U.S. production increased from 39.7 percent and 66 percent, respectively, in 1970 to 50.9 percent and 103.5 percent, respectively, in 1974. For the first six months of 1975, the ratio of imports to domestic production increased to 123 percent from 105 percent for the same period in 1974. A customer of Billig, accounting for 90 percent of sales, reduced purchases from Billig in 1974 and 1975, substituting lower-priced footwear from Brazil and Taiwan.

The evidence developed in the Department's investigation indicates that the separation of workers engaged in employment related to the production of women's footwear at Billig Shoe Company was caused by the increase of competitive imports. Customers reduced purchases of Billig shoes in favor of lower-priced imports. Reduced sales of women's footwear by Billig led to rapidly declining production. EVY Footwear Company officials decided to close the plant in Peckville, Pennsylvania in September 1975.

Thus, reduced demand caused by the increasing penetration of imports of

women's footwear in the domestic market contributed importantly to the total or partial separations of workers at Billig Shoe Company, Peckville, Pennsylvania.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's footwear produced at Billig Shoe Company contributed importantly to the total or partial separations of the workers of the firm. In accordance with the provisions of the Act I make the following certification:

All hourly, piecework, and salaried workers of Billig Shoe Company, Peckville, Pennsylvania who became totally or partially separated from employment on or after October 3, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, this 3rd day of November 1975.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.75-30812 Filed 11-13-75;8:45 am]

[TA-W-135]

HARRINGTON AND RICHARDSON, INC.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-135: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 8, 1975 in response to a worker petition received on September 4, 1975 which was filed by Local 262 of the International Union of Electrical, Radio and Machine Workers on behalf of workers formerly producing sporting firearms at the Gardner, Massachusetts plant of Harrington and Richardson, Incorporated, Gardner, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 42808) on September 16, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Harrington and Richardson, its customers, the U.S. Department of Commerce, U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each og the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 15 percent in the first three quarters of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales of single barrel shotguns at the Gardner, Massachusetts plant declined 38 percent in the first three quarters of 1975 compared to the first three quarters of 1974. Production declined 59 percent in the first three quarters of 1975 compared to the first three quarters of 1974.

Sales of rifles and handguns at the Gardner, Massachusetts plant increased 5 percent in the first three quarters of 1975 compared to the first three quarters of 1975. Production increased 4 percent in the first three quarters of 1975 compared to the first three quarters of 1974. Sales and production of rifles represent an insignificant part of the firms business.

Increased Imports Contributed Importantly. Imports of handguns like or directly competitive with those produced at the Gardner, Massachusetts plant increased from 293,000 units in 1972 to 326,572 units in 1974. The ratios of imports to domestic consumption and production decreased from 22.45 percent and 25.17 percent respectively in 1972 to 14.25 percent and 15.05 percent in the first six months of 1975.

This represented a decrease of 37 percent and 40 percent over the period. Harrington and Richardson's sales of handguns increased in the first six months of 1975.

Imports of single barrel shotguns like or directly competitive with those produced at the Gardner, Massachusetts plant decreased from 136,975 units in the first six months of 1974 to 60,341 in the first six months of 1975. The ratios of imports to domestic consumption and production decreased from 47.34 percent and 89.89 percent respectively in the first six months of 1974 to 39.36 percent and 64.91 percent in the first six months of 1975. This represented a decline of 17 percent and 28 percent respectively.

The evidence developed in the Department's investigation indicates that reduced sales of single barrel shotguns by Harrington and Richardson were the result of decreased retail demand for this product because of two factors: (1) economic conditions in the United States which particularly affected demand for luxury items and (2) a growing disenchantment among the American people with the idea of firearms as a hobby for children. These two factors have hurt the sales of all manufacturers of single barrel shotguns, not just Harrington and Richardson. While most customers did report absolute declines in purchases from Harrington and Richardson recently, in most cases Harrington and Richardson has maintained or increased its relative share of its customers' firearm requirements. No customers substituted purchases of imported handguns or single barrel shotguns for those previously purchased from Harrington and Richardson.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with firearms produced at the Gardner, Massachusetts plant did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 4th day of November 1975.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.75-30808 Filed 11-13-75;8:45 am]

[TA-W-131]

SERVCO HEEL CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Ass'stance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-131: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 4, 1975 in response to a worker petition received on September 4, 1975 which was filed by the United Shoe Workers of America (AFL-CIO) on behalf of workers formerly producing plastic heels for women's shoes at the Bonne Terre, Missouri plant of Servco Heel Company.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 42618) on September 15, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Servco Heel Company, its customers, American Footwear Industries Association, Rubber Manufacturers Association, Department of Commerce, U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers'

firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 75 percent in the first quarter of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production at the Bonne Terre plant declined 72 percent in the first quarter of 1975 compared to the first quarter of 1974. The plant closed in April 1975.

Increased Imports Contributed Importantly. Imports of articles like or directly competitive with plastic heels produced at the Bonne Terre plant have comprised less than one-half of one percent of total U.S. production each year since 1971.

The evidence developed by the Department's investigation indicates that changing shoe styles and the demand for quick delivery make imports of heels impractical. Declines in production at the Bonne Terre plant have resulted from decreased purchases of heels by domestic manufacturers of women's shoes who have been faced with a shrinking market for their domestically made women's shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with plastic heels produced at the Bonne Terre, Missouri plant of Servco Heel Company did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 4th day of November 1975.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc.75-30809 Filed 11-13-75;8:45 am]

Office of the Secretary of Labor

INDO-CHINA REFUGEES AT FORT CHAFFEE, ARKANSAS

Exemption from Service Contract Act

The Interagency Task Force on Indo-China Refugees has requested that the U.S. Department of Labor exempt from the provisions of the Service Contract Act, as amended (41 U.S.C. 351, et seq.) the use of Indo-China Refugees who volunteer their services to perform work for contractors at Fort Chaffee, Arkansas. The exempt work shall include assisting in the preparation and serving of meals, cleaning the mess halls, and custodial work in and around their living quarters. Such work shall be exclusively in support of the Indo-Chinese Refugees and not in those mess halls, living quarters or other facilities used by the Armed Service Personnel or other persons housed or fed at Fort Chaffee.

Upon full consideration of the Interagency Task Force's request and a showing that it is necessary and proper in the public interest and that it is not contrary to the remedial purposes of the Act to protect prevailing labor standards, the following exemption which shall expire December 1, 1976, is granted pursuant to the authority contained in Section 4(b) of the Act (41 U.S.C. 354(b)), Secretary's Orders Nos. 13-71, (36 FR 8755), Employment Standards Order 1-74 (39 FR 33841) and Regulations 29 CFR 4.123.

The employment of Indo-Chinese Refugees who volunteer their services to perform work at Fort Chaffee, Arkansas, shall be deemed exempt from the prevailing wage provisions of the Service Contract Act, as amended: *Provided*, That in the future the following limitations shall apply:

1. No refugee under 16 years of age shall be suffered or permitted to work except pursuant to Child Labor Regulation No. 3 (29 CFR 570.31, *et seq.*).

2. No refugee under 18 years of age shall be employed in any occupation found and declared hazardous by the Secretary of Labor (29 CFR 570.50, *et seq.*).

3. No refugee shall work more than 8 hours per day or a total of 30 hours each workweek.

4. No regular employees of a contractor shall be displaced by the engagement of the refugees.

5. No contractor shall receive a windfall profit as a result of performance of part of his contract by the use of refugees.

This exemption has been found to be a reasonable exemption on the application of the Service Contract Act, as amended, in view of the special circumstances involved, which is necessary and proper in the public interest and is in accord with the remedial purpose of the Act to protect prevailing labor standards.

Signed at Washington, D.C. on this 11th day of November 1975.

ROBERT C. CHASE,
Deputy Assistant Secretary for Employment Standards.

[FR Doc.75-30806 Filed 11-13-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 914]

ASSIGNMENT OF HEARINGS

NOVEMBER 11, 1975.

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.

MC 106644 Sub-198, Superior Trucking Company, Inc., now assigned December 11, 1975 at Louisville, Kentucky, is canceled and the application is dismissed.

MC 140393 Sub-1, Gem Tours, Inc., application is dismissed.

MC 141082, Door-To-Door Limousine, Inc., now being assigned January 7, 1976 (3 days) at Hartford, Connecticut; in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-30802 Filed 11-13-75;8:45 am]

[AB 6 (Sub-Nos. 15 and 29)]

BURLINGTON NORTHERN INC.

Abandonment of Lines

In the matter of abandonment between Joliette and Pembina in Pembina County, North Dakota, and between Neche, North Dakota and Gretna, Manitoba in Pembina County, North Dakota and Manitoba, Canada.

Upon consideration of the record in the above-entitled proceedings, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in these proceedings because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Pembina County, N.D., on or before November 25, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 31st day of October, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

[AB 6 (Sub-No. 15)]

BURLINGTON NORTHERN INC. ABANDONMENT BETWEEN JOLIETTE AND PEMBINA IN PEMBINA COUNTY, NORTH DAKOTA

[AB 6 (Sub-No. 29)]

BURLINGTON NORTHERN INC. ABANDONMENT BETWEEN NECHE, NORTH DAKOTA AND GRETNA, MANITOBA IN PEMBINA COUNTY, NORTH DAKOTA AND MANITOBA, CANADA

The Interstate Commerce Commission hereby gives notice that by order dated October 31, 1975, it has been determined that the proposed abandonment by the Burlington Northern Inc. of portions of its branch lines between Pembina and Joliette in Pembina County, N.D., and between Neche and Gretna in Pembina County and Manitoba, Canada, if approved by the Commission, do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that no traffic is generated on the subject lines and the low volumes of overhead traffic and traffic destined for interchange with Canadian lines can be rerouted over applicant's other lines in the area. Although the new routes may be more circuitous, the overall environmental effect is expected to be minimal. Service to the rest of the affected branches should remain essentially unchanged.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before December 10, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

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

[FR Doc.75-30799 Filed 11-13-75;8:45 am]

[AB88; Finance Docket No. 27574]

BESSEMER AND LAKE ERIE RAILROAD, CO. AND ERIE LACKAWANNA RAILWAY, CO.

Abandonment and Purchase of Lines

In the matter of Bessemer and Lake Erie Railroad Company, abandonment portion Meadville Branch, at Meadville Junction, Crawford County, Pennsylvania, and Thomas F. Patton and Ralph S. Tyler, Jr., trustees of the property of Erie Lackawanna Railway Company, debtor—purchase and operation—Vallonia branch and Meadville Branch of the Bessemer and Lake Erie.

Upon consideration of the record in the above-entitled proceedings, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in these proceedings because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Crawford County, Pa., on or before November 28, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 5th day of November, 1975.

By the Commission, Commissioner Brown.

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

[AB 88]

BESSEMER AND LAKE ERIE RAILROAD COMPANY ABANDONMENT PORTION MEADVILLE BRANCH, AT MEADVILLE JUNCTION, CRAWFORD COUNTY, PENNSYLVANIA

[FINANCE DOCKET NO. 27574]

THOMAS F. PATTON AND RALPH S. TYLER, JR., TRUSTEES OF THE PROPERTY OF ERIE LACKAWANNA RAILWAY COMPANY, DEBTOR—PURCHASE AND OPERATION—VALLONIA BRANCH AND MEADVILLE BRANCH OF THE BESSEMER AND LAKE ERIE

The Interstate Commerce Commission hereby gives notice that by order dated November 5, 1975, it has been determined that the proposed abandonment by the Bessemer and Lake Erie Railroad Company of its line of railroad between Meadville Junction and the City of Meadville, a distance of 14.19 miles, all in Crawford County, Pa., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because (1) the volume of traffic on the subject line has been low, (2) the affected station at Meadville will continue to have rail service, (3) highways in the area are able to accommodate the resultant slight diversion to truck transport, (4) an abandonment approval will be consistent with plans enabling the Erie Lackawanna to acquire and operate certain trackage in the City of Meadville, and (5) there is an absence of any major Historic, safety and ecological aspects associated with the proposal. In addition, Crawford County has expressed an interest in obtaining part of the right-of-way property for use as a recreational facility.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before December 15, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

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

[FR Doc.75-30800 Filed 11-13-75;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 11, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before December 1, 1975.

FSA No. 43074—*Joint Rail-Water Container Rates—Italian Line.* Filed by Italian Line, (No. 2), for itself and interested rail carriers. Rates on general commodities, between rail terminals in U.S. Gulf Coastal cities, and ports and terminals in European Mediterranean countries.

Grounds for relief—Water competition.

Tariffs—Italian Line tariffs I.C.C. Nos. 1 and 2. Rates are published to become effective on December 8, 1975.

FSA No. 43075—*Joint Rail-Water Container Rates—Italian Line.* Filed by Italian Line, (No. 2), for itself and interested rail carriers. Rates on general commodities, from ports and terminals in Europe, to rail and water carrier terminals on the U.S. Pacific Coast Seaboard.

Grounds for relief—Water competition.

By the Commission.

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

[FR Doc.75-30801 Filed 11-13-75;8:45 am]

[Notice No. 117]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

NOVEMBER 14, 1975.

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 Commissions' Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before August 4, 1975. 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–76119 By order of November 10, 1975, the Motor Carrier Board approved the transfer to Montana Brand Produce Company, Inc., Murray, Utah, of Permit No. MC 133979, issued November 2, 1971, to Chris Drakos, doing business as Montana Brand Produce Co., Murray, Utah, authorizing the transportation of specified commodities between points in the States of Washington, Oregon, California, Nevada, Utah, Idaho, Montana, Wyoming, and Colorado. Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75–30803 Filed 11–13–75;8:45 am]

[Notice No. 89]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
The Peter H. Mortensen-Vinci Co., MC–77482, Sub-22	MC–77482, Sub-23	Oct. 24, 1975
L. L. Smith Trucking, MC–105006, Sub-3	MC–105006, Sub-4	Aug. 16, 1975
Jerry Lipps, Inc., MC–118559, Sub-106	MC–118559, Sub-107	Nov. 7, 1975
D.b.a., Davis Bros., MC–127349, Sub-3	MC–127349, Sub-2	May 18, 1970
D.b.a., All-Star Transportation, MC–134182, Sub-17	MC–134182, Sub-18	Nov. 7, 1975
Price Delivery Service, MC–134454, Sub-7	MC–134454, Sub-4	July 7, 1975
B–H Transfer Co., MC–135809, Sub-1	MC–135809, Sub-2	June 6, 1975
B–H Transfer Co., MC–135809, Sub-4	MC–135809, Sub-3	Do.
Luisi Truck Lines, Inc. MC–136228, Sub-10	MC–136228, Sub-12	Oct. 24, 1975

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75–30804 Filed 11–13–75;8:45 am]

[Notice No. 90]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Arthur H. Fulton, MC–138000	MC–138000 Sub-4	Jan. 13, 1975
Arthur H. Fulton, MC–138000, Sub-2	MC–138000, Sub-5	Nov. 3, 1975
Smithway Motor Express, Inc., MC–138627, Sub-5	MC–138627, Sub-6	Oct. 24, 1975
Madewell Metals, Inc., MC–139727	MC–139727, Sub-1	Sept. 19, 1975
D.b.a., Mabe Trucking Co., MC–140063, Sub-1	MC–140063, Sub-2	Oct. 24, 1975

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75–30805 Filed 11–13–75;8:45 am]

federal register

FRIDAY, NOVEMBER 14, 1975



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

■

INDIAN SELF-DETERMINATION ACT

Procurement Contract Regulations

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Contracts Under the Indian Self-Determination Act

On September 15, 1975, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER (40 FR 42674) a notice of proposed rulemaking setting forth for public comment the special requirements, policies and clauses applicable to contracts under the Indian Self-Determination Act.

Section 103 of the Indian Self-Determination Act, Pub. L. 93–638, 25 U.S.C. 450g, requires the Secretary of Health, Education, and Welfare to contract at the request of a tribe with a tribal organization to carry out any or all of his functions, authorities, or responsibilities under the Act of August 5, 1954, as amended, 42 U.S.C. 2001.

In response to public comments on the regulations as proposed, a number of substantive changes have been made. Additionally, some editorial changes for clarity, style, and organization have been made. In the interest of eliminating standard clauses in DHEW contracts which are inappropriate to contracts under the Indian Self-Determination Act, the proposed clauses on Rights in Data, Reporting of Royalties, Authorization and Consent, Notice and Assistance Regarding Patent and Copyright Infringement, Publication and Publicity, Patent Rights, Utilization of Small Business Concerns, Utilization of Labor Surplus Area Concerns, and Utilization of Minority Business Concerns have been deleted from the General Provisions, §§ 3–4.6013 and 3–4.6014.

Modifications have been made to the clauses of the General Provisions listed below. Several of these modifications have been made in response to public comments. Most of the modifications apply to identical clauses in the General Provisions for cost reimbursement (§ 3–4.6013) and fixed price (§ 3–4.6014) contracts. See items 1 through 8 below. The modifications to clauses of the General Provisions for only one type of contract—either cost reimbursement or fixed price—are discussed in items 9 through 12 below.

1. *Inspection and reports.* This clause has been modified to require the annual report to be submitted to the contracting officer within 90 (rather than 60) days of the end of the fiscal year. The last sentence of this clause has been modified to reflect the fact that additional reports may be required of the contractor by the Secretary, as provided in 42 CFR 36.227.

2. *Changes.* This clause has been modified to require the consent of the contractor to changes ordered by the contracting officer.

3. *Retrocession.* This clause has been modified to provide that the contracting officer will meet with the tribal governing body, where applicable, as well as with the contractor after receipt of a request for retrocession.

4. *Assumption and Reassumption of Contract Programs.* This clause has been modified to conform to the changes made in 42 CFR 36.233.

5. *Equal Opportunity.* This clause has been modified to conform to the clause prescribed by Executive orders 11246 and 11375 and the regulations of the Secretary of Labor, 41 CFR, Chapter 60. The Equal Opportunity clause is subject to the Indian preference in training and employment clause.

6. *Use of Indian Business Concerns.* This clause has been modified to add a requirement that the contractor comply with preference requirements regarding Indian Business concerns established by the tribe to the extent consistent with the purpose of the clause. A provision was also added concerning the use of small business concerns, labor surplus area concerns and minority business enterprises where no Indian business concerns are available.

7. *Indian Preference in Training and Employment.* This clause has been modified to require that the contractor give preference in employment and training to Indians regardless of age, religion, or sex. The clause has been further modified to provide that if the contractor or any of his subcontractors are unable to fill employment openings with Indians, such openings may be filled by other than Indians under the conditions set forth in the Equal Employment clause of the contract.

8. *Civil Rights Act of 1964.* This clause which refers to Title VII of the Civil Rights Act of 1964 has been deleted as unnecessary. Employment requirements are covered in the Indian Preference in training and employment and Equal Opportunity clauses.

9. *Anti-Kickback Act.* This standard clause, which appears in the General Provisions for fixed price contracts has been added to the General Provisions for cost reimbursement contracts.

10. *Allowable Cost.* This clause in the General Provisions for cost reimbursement contracts has been modified to provide that if the contract is for procurement of construction or architect engineering services, allowable costs will be determined in accordance with Subpart 1–15.4.

11. *Government Property.* This clause in the General Provisions for cost reimbursement contracts has been modified to add a sentence to paragraph (d) requiring the contractor to comply with Federal, State, and local requirements applicable to the operation and maintenance of government property.

12. *Government-Furnished Property.* The provisions of this clause in the General Provisions for fixed price contracts relating to disposition of government furnished property upon completion of the contract have been modified to delete non-applicable cross-references and to clarify that the contractor is not relieved of responsibility for such property without the prior approval of the contracting officer.

In addition to the revisions in the General Provisions, the following modifications have been made to Subpart 3–4.60:

13. Section 3–4.6001 has been modified to state that the provisions of Subpart 3–4.60, which are applicable solely to contracts under the Indian Self-Determination Act, govern in the event of a conflict with other provisions of the Federal Procurement Regulations (41 CFR Chapter 1) and of the HEW Procurement Regulations (41 CFR Chapter 3).

14. Section 3–4.6008 of the proposed regulations provided solely for the implementation of the Davis-Bacon Act. As revised, this section includes all of the applicable requirements of the Federal Procurement Regulations (FPR) relating to architect-engineering and construction contracts (41 CFR Parts 1–4.10 and 1–18). In implementation of section 7(a) of Pub. L. 93–638, § 3–4.6008 requires the inclusion in construction contracts of the applicable labor standards and related provisions set forth in section 1–18.603 of the FPR (41 CFR 1–18.603). The provisions of the FPR relating to bonds and insurance (Subpart 1–18.10) are specifically made inapplicable to construction contracts under Pub. L. 93–638. § 3–4.6008(a) includes a provision that in the event of conflict between any provisions of the FPR relating to architect-engineering and construction contracts and the provisions of Pub. L. 93–638 and 42 CFR Part 36, the provisions of Pub. L. 93–638 and 42 CFR Part 36 will govern.

15. Section 3–4.6010 relating to the use of General Services Administration Supply Sources has been modified to implement the requirement in § 3–5.950 of the HEW Procurement Regulations (41 CFR 3–5.950) that a standard clause be included in cost-reimbursement contracts in which the contractor is authorized to use GSA supply sources.

As noted in the preamble to the regulations published today in the FEDERAL REGISTER (42 CFR Part 36) governing grants and contracts under the Indian Self-Determination Act, representatives of HEW will meet with representatives of the Bureau of Indian Affairs in an effort to achieve maximum uniformity in the regulations of the two agencies implementing the Act. It is our expectation that these efforts will result in a revision of the regulations in 41 CFR Subpart 3–4.60, including the prescribed contract clauses. We also expect to propose revisions to these regulations and the contract clauses, pursuant to Section 107(C) of the Act in the light of experience gained in administering contracts under the Act.

Pursuant to the authority of sections 103 and 107 of Pub. L. 93–638, 25 U.S.C. 450g and 450k; section 3 of Pub. L. 83–568, 42 U.S.C. 2003; and 40 U.S.C. 486 (c), 41 CFR Part 3–4 is amended by the addition of the following new subpart 3–4.60.

Effective date. The regulations shall become effective November 14, 1975.

Approved: November 7, 1975.

DAVID MATHEWS,
Secretary.

Subpart 3–4.60—Contracts Under the Indian Self-Determination Act

Sec.
3–4.6000 Scope of subpart.
3–4.6001 Applicability of regulations.
3–4.6002 Waivers.
3–4.6003 Negotiating authority.
3–4.6004 Definitions.
3–4.6005 Types of contracts.
3–4.6006 Terms of contracts.
3–4.6007 Exemption from bonds.
3–4.6008 Procurement of construction and architect-engineering service contracts.
3–4.6009 Performance of personal services.
3–4.6010 Use of General Services Administration supply sources.
3–4.6011 Special provisions of Indian Self-Determination contracts.
3–4.6012 General provisions.
3–4.6013 General provisions for Cost Reimbursement Contracts under the Indian Self-Determination Act.
3–4.6014 General provisions for Fixed Cost contracts under the Indian Self-Determination Act.

AUTHORITY: Secs. 103, 107 of P.L. 93–638, 25 U.S.C 450g, 450k; sec 3, Pub. L. 83–568 (42 U.S.C. 2003; 40 U.S.C. 486(c)).

Subpart 3–4.60—Contracts Under the Indian Self-Determination Act

§ 3–4.6000 Scope of subpart.

This subpart prescribes procedures for contracting by the Department of Health, Education, and Welfare under the Indian Self-Determination Act (25 U.S.C. 405f).

§ 3–4.6001 Applicability of regulations.

Contracts with tribal organizations resulting from the submission of Indian Self-Determination Contract Proposals as authorized in Public Law 93–638 shall be in accordance with 41 CFR Chapters 1 and 3, except as otherwise provided herein. If this subpart conflicts with any of the other provisions of 41 CFR Chapters 1 or 3, the provisions of this subpart govern.

§ 3–4.6002 Waivers.

(a) The Secretary waives Federal contract clauses that are normally contained in the General Provisions of a DHEW contract to the extent that they are omitted from the General Provisions prescribed for such contracts in this subpart.

(b) The Secretary may waive for the purpose of a specific contract such other provisions of federal contracting laws or regulations as he determines are not appropriate in view of, or are inconsistent with, the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). Requests for such waivers shall be in accordance with 42 CFR 36.216.

(c) While it is DHEW's policy to obtain competition whenever possible, any contract award to a tribal organization resulting from the submission of an Indian Self-Determination Contract Proposal will be effected without competition.

(d) Proposed contracts under section 103 of the Indian Self-Determination Act are exempted from the synopsis requirements of 41 CFR 1–1.1003. Although subcontracts are subject under section 7(b) of that act to a preference to Indian organizations and to Indian-owned economic enterprises. Opportunities to so subcontract may be publicized by contracting officers as provided for in 41 CFR 1–1003–4.

§ 3–4.6003 Negotiating authority.

(a) Contracts entered into pursuant to section 103 of the Indian Self-Determination Act (25 U.S.C. 450g) will cite as the negotiating authority 41 U.S.C. 252 (c) (15) and 25 U.S.C. 450g.

§ 3–4.6004 Definitions.

The definitions prescribed in 42 CFR 36.204 are applicable to this subpart.

§ 3–4.6005 Types of contracts.

(a) Cost reimbursement contracts will be used for all contracts made pursuant to this subpart between the Department and an Indian tribe or tribal organization. In addition to such other provisions as the Secretary may from time to time require, such cost reimbursement contracts shall contain the terms set out in § 3–4.6013.

(b) Fixed-price contracts may be used in only these instances where costs can be precisely established. In addition to such other provisions as the Secretary may from time to time require, such fixed-price contracts shall contain the terms set out in 3–4.60 § 3–4.6014.

(c) Cost sharing contracts may be used where the tribe contributes to the cost of a program and may specify a percentage of cost or fixed amount to be funded by the government.

§ 3–4.6006 Term of contract.

(a) The term of contracts awarded under the Act shall not exceed one year except that contracts may be made for a longer term up to three years subject to the availability of appropriations under the following circumstances:

(1) The services provided under the contract can reasonably be expected to be continuing in nature and, as a result, a longer contract term would be advantageous.

(2) The Indian tribe or tribes to be served by the contract request that the term be more than one year. The tribal organization will indicate the desired term of the contract in the Self-Determination Contract Proposal.

(b) Contracts made for a term of more than one year may be renegotiated annually to reflect factors which include, but need not be limited to, cost increases beyond the control of the tribal contractor. Proposed changes in the services provided under the contract which reflect changes in program emphasis may be considered during the annual renegotiation if the changes fall within the general scope of the contract.

§ 3–4.6007 Exemption from bonds.

A tribal organization is not required to furnish performance and payment bonds before carrying out a contract under this Part for the construction of public buildings or works as required by the Miller Act of August 24, 1935 (49 Stat. 793), as amended. However, the tribal organization shall require each of its subcontractors other than tribal organizations, to furnish both performance and payment bonds as follows:

(a) A performance bond with a surety or sureties satisfactory to the approving official, and in an amount he deems adequate, for the protection of the United States.

(b) A payment bond with a surety or sureties satisfactory to the approving official for the protection of all persons supplying labor and material in the prosecution of the work provided for in the contract. Whenever the total amount payable by the terms of the contract is not more than $1,000,000 the payment bond shall be one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract is more than $1,000,000 but not more than $5,000,000, the payment bond shall be 40 percent of the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract is more than $5,000,000 the payment bond shall be $2,500,000.

§ 3–4.6008 Procurement of construction and architect-engineering services contract.

(a) This section sets forth procedures and requirements peculiar to construction and architect-engineering service contracts. The terms and conditions of such contracts when negotiated with an Indian tribe or tribal organization pursuant to the Act shall, to the extent applicable, be in accordance with the requirements set forth in Part 1–18 and Part 1–4.10 of this title. However, if there is a conflict between Part 1–18 and Part 1–4.10 of this title, and any provision of the Act or 42 CFR 36, the Act or 42 CFR 36 shall govern. In addition, such contracts shall include the special provisions identified in § 3–4.6011.

(b) Exceptions.

(1) Subpart 1–18.10 of this title is not applicable.

(2) The contract clauses required by § 1–18.703–1 of this title shall be inserted in construction contracts with an Indian tribe or tribal organization which serves as a governmental instrumentality of an Indian tribe, but shall be prefaced by the provision contained in § 1–18.-702–3 of this title.

(3) In all cases, the contracting officer shall obtain and insert the Wage Determination Decision issued by the Secretary of Labor in the contract prior to award of any contract for construction that falls within the purview of the Davis-Bacon Act. The Wage Determination Decision should be furnished sufficiently in advance of the contract award date to permit full consideration by the tribal organization and any prospective subcontractors prior to contract award.

§ 3–4.6009 Performance of personal services.

Any contract made under this subpart may include provisions for the performance of personal services which would otherwise be performed by Federal employees. Such services include, but are

not limited to, performing the following functions in connection with the contract and applicable rules and regulations:

(a) Determining the eligibility of applicants for assistance, benefits, or services.

(b) Determining the extent or amount of assistance, benefits, or services to be provided.

(c) Providing such assistance, benefits, or services.

§ 3–4.6010 Use of General Services Administration supply sources.

Indian tribal organizations who are awarded cost reimbursement type contracts under this subpart, may be authorized to utilize GSA supply sources. The following clause will be inserted in all cost reimbursement-type contracts under which the contractor may be authorized to acquire items for the account of the Government from GSA supply sources:

General Services Administration Supply Sources (July, 1968).

The contracting officer may issue and the contractor agrees to accept an authorization to utilize General Services Administration supply sources for property to be used in the performance of this contract. Title to all property acquired under such an authorization shall be in the Government. All property acquired under such an authorization shall be subject to the provisions of the clause of this contract entitled "Government Property," except paragraphs (identify) thereof.

§ 3–4.6011 Special Provision of Indian Self Determination Contracts.

Contracts entered into pursuant to Section 103 of the Act must incorporate special clauses which are consistent with those prescribed in subpart I of Part 36 of 42 CFR on the following subjects:

(a) Fair and Equal Treatment of Indian People.

(b) Use of Indian Business Concerns.

(c) Indian Preference in Training and Employment.

(d) Indemnity and Insurance.

(e) Reports to the Indian People.

(f) Penalties.

(g) Retrocession.

(h) Assumption and Reassumption of Contract Programs.

§ 3–4.6012 General Provisions.

General Provisions are published in these regulations in order to respond to the expressed desire of the Indian people, to have published in one place, all of the terms and conditions applicable to contracts awarded under the Act. These General Provisions incorporate the special clauses whose titles are listed in 3–4.6011 above as well as applicable standard contract clauses.

§ 3–4.6013 General Provisions for Cost Reimbursement Contracts under the Indian Self-Determination Act (P.L. 93–638), Title I.

Clause No. and Title

1. Definitions.
2. Disputes.
3. Limitation of Cost.
4. Allowable Cost.
5. Negotiated Overhead Rates.
6. Payment.
7. Advance Payment.
8. Examination of Records.
9. Inspection and Reports.
10. Subcontracting.
11. Accounts, Audit, and Records.
12. Government Property.
13. Changes.
14. Notice to the Government of Delays.
15. Retrocession.
16. Reassumption of Programs.
17. Key Personnel.
18. Litigation and Claims.
19. Indemnity and Insurance.
20. Overtime.
21. Foreign Travel.
22. Questionnaires and Surveys.
23. Printing.
24. Services of Consultants.
25. Assignment of Claims.
26. Contract Work Hours and Safety Standards Act-Overtime Compensation.
27. Walsh-Healey Public Contracts Act.
28. Equal Opportunity.
29. Indian Preference in Training and Employment.
30. Certificate of Nonsegregated Facilities.
31. Convict Labor.
32. Officials Not to Benefit.
33. Buy American Act Supply and Service Contracts.
34. Anti-Kickback Act.
35. Use of Indian Business Concerns.
36. Payment of Interest on Contractors' Claims.
37. Fair and Equal Treatment of Indian People.
38. Price Reduction for Defective Cost or Pricing Data.
39. Subcontractor Cost and Pricing Data.
40. Penalties.
41. Effect on Existing Rights.

Clause No. 1—Definitions.

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health, Education, and Welfare; and the term "his duly authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or employee who is properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his authority.

(c) The term "Project Officer" means the person representing the Government for the purpose of monitoring of contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increase or decrease in the cost of this contract or which change the period of this contract.

(d) The term "Department" means the Department of Health, Education, and Welfare.

(e) Except as otherwise provided in this contract, the term "subcontract" includes purchase orders under this contract.

Clause No. 2—Disputes.

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: Provided, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Clause No. 3—Limitation of cost.

(a) It is estimated that the total cost to the Government for the performance of this contract will not exceed the estimated cost set forth in this contract and the Contractor agrees to use its best efforts to perform all work and all obligations under this contract within such estimated costs. If at any time the Contractor has reason to believe that the costs which it expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated cost set forth in the contract, or, if at any time the Contractor has reason to believe that the total cost to the Government, for the performance of this contract, will be substantially greater or less than the estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving its revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the contract and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of such estimated cost unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in this contract has been increased by the Contracting Officer in writing, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

Clause No. 4—Allowable cost.

(a) Compensation for Contractor's performance. Payment for the allowable cost, as herein defined and as actually incurred by the contractor shall constitute full and complete compensation for the performance of the work under this contract.

(b) Allowable cost. The allowable cost of performing the work under this contract shall be the cost actually incurred by the Contractor, either directly incident or properly allocable to the contract, in the performance of this contract in accordance with its terms. The allowable cost, direct and indirect, including acceptability of cost allocation methods, shall be determined by the Contracting Officer in accordance with:

(1) (i) "A Guide for Nonprofit Institutions Establishing Indirect Cost Rates for Research Grants and Contracts with the Department of Health, Education, and Welfare, DHEW Publication OASC-5," or (ii) "A Guide for Hospitals, Establishing Indirect Cost Rates for Research Grants and Contracts with the Department of Health, Education, and Welfare, DHEW Publication OASC-3," or (iii) Subpart 1-15.7 of the Federal Procurement Regulations (41 CFR 1-15.7) if the contract is with a state or local government agency or (iv) Subpart 1-15.4 of the Federal Procurement Regulations (41 CFR 1-15.4) if the contract is for the procurement of construction or architect-engineering services.

(2) The terms of the contract.

Clause No. 5—Negotiated overhead rates.

(a) Notwithstanding the provisions of the clause of this contract entitled, "Allowable Cost," the allowable indirect costs shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible, but not later than six (6) months after the expiration of each of the Contractor's financial years or such period as may mutually be agreed upon by the Government and the Contractor, shall submit to the Contracting Officer, with a copy to the cognizant audit agency, a proposed final overhead rate or rates for that period based on the Contractor's cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles set forth in paragraph (b) (1) of Clause 4, as in effect on the date of this contract, and the same hereby incorporated herein by reference.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify (1) the agreed final rate, (2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in this contract or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rates provided in this contract shall be set forth in an amendment to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the clause of this contract entitled "Disputes."

(g) Submission of proposed provisional and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or his duly authorized representative, and agreements on provisional and/or final overhead rates entered into between the Contractor and the Secretary or his duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d) and (e) above.

Clause No. 6—Payment.

(a) Payment on account of allowable costs. Once each month (or at more frequent intervals if approved by the Contracting Officer) the Contractor may submit to the Contracting Officer, in such form and reasonable detail as may be required, an invoice or voucher supported by a statement of costs incurred by the Contractor in the performance of this contract and claimed to constitute allowable costs. Promptly after receipt of each invoice or voucher the Government shall, subject to the provisions of (b) below, make payment thereon as approved by the Contracting Officer.

(b) Audit adjustments. At any time or times prior to settlement under this contract the Contracting Officer may have invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayment, or increased for underpayments on preceding invoices or vouchers.

(c) Completion voucher. On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "Completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including without limitation, the provisions relating to patents and provisions of (d) below) the Government shall promptly pay to the Contractor any balance of allowable cost. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than 6 months (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion.

(d) Applicable credits. The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer.

(e) Financial settlement. Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(1) An assignment to the Government in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract, and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are susceptible to exact statement by the Contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract: Provided, That such claims are not known to the contractor on the date of the execution of the release: And provided further, That the Contractor gives notice of such claims in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

Clause No. 7—Advance Payments.

(a) *Amount of Advance.* At the request of the contractor, and subject to the conditions hereinafter set forth, the Government shall make an advance payment, or advance payments from time to time, to the Contractor. No advance payment shall be made (1) without the approval of the officer administering advance payments (hereinafter called the "Administering Office" and designated in paragraph (k) (4) hereof) as with all advance payments theretofore made, shall exceed the amount stated in paragraph (k) (1) hereof; and (3) without a properly certified invoice or invoices.

(b) *Special Bank Account.* Until all advance payments made hereunder are liquidated and the Administering Office approves in writing the release of any funds due and payable to the Contractor, all advance payments and all other payments under the contract shall be made by check payable to the Contractor, and be marked for deposit only in a Special Bank Account with the bank designated in paragraph (k) (2) hereof. No part of the funds in the Special Bank Account shall be mingled with other funds of the Contractor prior to withdrawal thereof from the Special Bank Account as hereinafter provided. Except as hereinafter provided, each withdrawal shall be made only by check of the Contractor countersigned on behalf of the Government by the Contracting Officer or such other person or persons as he may designate in writing (hereinafter called the "Countersigning Agent"). Until otherwise determined by the Administering Office, countersignature on behalf of the Government will not be required.

(c) *Use of Funds.* The funds in the Special Bank Account may be withdrawn by the Contractor solely for the purposes of making payments for items of allowable cost or to reimburse the Contractor for such items of allowable cost, and for such other purposes as the Administering Office may approve in writing. Any interpretation required as to the proper use of funds shall be made in writing by the Administering Office.

(d) *Return of Funds.* The Contractor may at any time repay all or any part of the funds advanced hereunder. Whenever so requested in writing by the Administering Office, the Contractor shall repay to the Government such part of the unliquidated balance of advance paymenst as shall in the opinion of the Administering Office be in excess of current requirements, or (when added to total advance previously made and liquidated) in excess of the amount specified in paragraph (k) (1) hereof. In the event the Contractor fails to repay such part of the unliquidated balance of advance payments when so requested by the Administering Office, all or any part thereof may be withdrawn from the Special Bank Account by checks payable to the Treasurer of the United States signed solely by the Countersigning Agent and applied in reduction of advance payments then outstanding hereunder.

(e) *Liquidation.* If not otherwise liquidated, the advance payments made hereunder shall be liquidated as herein provided. When the sum of all payments under this contract, other than advance payments, plus the unliquidated amount of advance payments are equal to the total estimated cost for the work under this contract or such

lesser amount to which the total estimated cost under this contract may have been reduced, plus increases, if any, in this total estimated cost not exceeding, in the aggregate, (including, without limitation, reimbursable costs incident to termination for cause and retrocession as estimated by the Contracting Officer), the Government shall thereafter withhold further payments to the Contractor and apply the amounts withheld against the Contractor's obligation to repay such advance payments until such advance payments shall have been fully liquidated. If upon completion, termination, or retrocession of the contract all advance payments have not been fully liquidated, the balances therefore shall be deducted from any sums otherwise due or which may become due to the Contractor from the Government, and any deficiency shall be paid by the Contractor to the Government upon demand.

(f) *Bank Agreement.* Before an advance payment is made hereunder, the Contractor shall transmit to the Administering Office, in the form prescribed by such office, an Agreement in triplicate from the bank in which the Special Bank Account is established, clearly setting forth the special character of the account and the responsibilities of the bank thereunder. Wherever possible, such bank shall be a member bank of the Federal Reserve System, or an "insured" bank within the meaning of the Act creating the Federal Deposit Insurance Corporation Act of August 23, 1935, 49 Stat. 685, as amended (12 U.S.C. 264).

(g) *Lien on Special Bank Account.* The Government shall have a lien upon any balance in the Special Bank Account paramount to all other liens, which lien shall secure the repayment of any advance payments made hereunder.

(h) *Lien on Property Under Contract.* Any and all advance payments made under this contract shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, upon the supplies or other things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other provision of this contract, or otherwise, shall have valid title to such supplies, materials, or other property as against other creditors of the Contractor. The Contractor shall identify, by marking or segregation, all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. If for any reason such supplies, materials, or other property are not identified by marking or segregation, the Government shall be deemed to have a lien to the extent of the Government's interest under this contract on any mass of property with which such supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over such property on his books and records. If at any time during the progress of the work on the contract it becomes necessary to deliver any item or items and materials upon which the Government has a lien as aforesaid to a third person, the Contractor shall notify such third person of the lien herein provided and shall obtain from such third person a receipt, in duplicate, acknowledging, inter alia, the existence of such lien. A copy of each receipt shall be delivered by the Contractor to the Contracting Officer. If this contract is terminated in whole or in part and the Contractor is authorized to sell or retain termination inventory acquired for or allocated to this contract, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release of the Government's lien hereunder to the extent that such termination inventory is sold or retained, and to the extent that the proceeds of the sale, or the credit allowed for such retention on the Contractor's termination claim, is applied in reduction of advance payments then outstanding hereunder.

(i) *Insurance.* The Contractor represents and warrants that he is now maintaining with responsible insurance carriers, (1) insurance upon his own plant and equipment against fire and other hazards to the extent that like properties are usually insured by others operating plants and properties of similar character in the same general locality; (2) adequate insurance against liability on account of damage to persons or property; and (3) adequate insurance under all applicable workmen's compensation laws. The Contractor agrees that, until work under this contract has been completed and all advance payments made hereunder have been liquidated, he will (i) maintain such insurance; (ii) maintain adequate insurance upon any materials, parts, assemblies, subassemblies, supplies, equipment and other property acquired for or allocable to this contract and subject to the Government lien hereunder; and (iii) furnish such certificates with respect to his insurance as the Administering Office may from time to time require.

(j) *Prohibition Against Assignment.* Notwithstanding any other provision of this contract, the Contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(k) *Designations and Determinations.* (1) *Amount.* The amount of advance payments at any time outstanding hereunder shall not exceed $_____.

(2) *Depository.* The bank designated for the deposit of payments made hereunder shall be:

(3) *Interest Charge.* No interest shall be charged for advance payments made hereunder. The Contractor shall charge interest at the rate of 6 percent per annum on subadvances or down payments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on nonprofit subcontracts with nonprofit educational or research institutions for experimental, research or development work.

(4) *Administering Office.* The office administering advance payments shall be the office designated as having responsibility for awarding the contract.

(l) *Other Security.* The terms of this contract shall be considered adequate security for advance payments hereunder, except that if at any time the administering office deems the security furnished by the Contractor to be inadequate, the Contractor shall furnish such additional security as may be satisfactory to the administering office, to the extent that such additional security is available.

Clause No. 8—Examination of records.

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Contractor agrees that the Comptroller General of the United States and the Secretary, or any of their duly authorized representatives, shall until expiration of 3 years after final payment under this contract or of the time period for the particular records in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States, or his duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20) whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above, for records which relate to (1) appeals under the "Disputes" cause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

Clause No. 9—Inspection and reports.

(a) Inspection of work. The Government shall have the right to inspect the work and activities under this contract, including, without limitation, premises where any Government property may be located at such reasonable times and in such manner as it may deem appropriate and the Contractor shall afford the Government proper facilities and assistance for such inspection.

(b) Reports. The Contractor shall furnish such progress reports, schedules, financial and cost reports, and other reports concerning the work under this contract as specified elsewhere in this contract. Cost and other financial data and projections furnished pursuant to this paragraph (b) shall not relieve the Contractor of the requirements for furnishing notice specified in the clause of this contract entitled "Limitation of Cost."

(c) In addition, where Federal Financial assistance is involved in the contract effort, the following clause will apply:

Reports to the Indian People

The contractor, as a recipient of Federal financial assistance, shall make reports and information available to the Indian people served or represented by the contractor. Such reports will reflect how the Federal assistance funds were utilized to the benefit of the Indian people served or represented as follows: (specific reporting requirements, formats and methods of distribution to the Indian people will be prescribed in the scope of the contract.)

(d) Annual Reporting.

(1) For each fiscal year during which a tribal organization receives or expends funds pursuant to a contract under this Part, the tribe which requested the contract must submit a report to the Contracting Officer. The report shall include, but not be limited to, an accounting of the amounts and purposes for which the contract funds were expended and information on the conduct of the program or services involved. The reports shall include any other information requested by the Contracting Officer and may be submitted as follows:

(i) When the contract is with the governing body of an Indian tribe, the tribe shall

submit the report to the Contracting Officer.

(ii) When the contract is with a tribal organization other than the governing body of the tribe, the tribe has the option of having the tribal organization prepare the report and submit it to the tribe for review and approval before the tribe submits it to the Contracting Officer.

(iii) When the contract benefits more than one tribe, the tribal organization shall prepare and submit the report to each of the tribes benefiting under the contract. Each tribe shall endorse the report before submitting it to the Contracting Officer.

(2) The annual report shall be submitted to the Contracting Officer within 90 days of the end of the fiscal year in which the contract was performed. However, the period for submitting the report may be extended if there is just cause for such extension.

(3) In addition to the yearly reporting requirement given in paragraphs (a) and (b) of this section, the tribal contractor shall furnish other reports when and as required by the Secretary.

Clause No. 10—Subcontracting.

(a) Prior approval required. Except as provided in (c) below, the Contractor shall not enter into any subcontract or purchase order not otherwise expressly authorized elsewhere in this contract without the prior written approval of the Contracting Officer and subject to such conditions as the Contracting Officer may require.

(b) Request for approval. The Contractor's request for approval to enter into a subcontract pursuant to this clause shall include: (1) a description of the supplies or services to be called for by the subcontract; (2) identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained; (3) the proposed subcontract price, together with the Contractor's cost or price analysis thereof; (4) identification of the type of subcontract to be used; (5) a copy or draft of the proposed subcontract, if available; and (6) any other information which the Contracting Officer may require.

(c) Certain purchases of property and services. Prior written approval shall not be required for firm fixed-price subcontracts for the purchase or rental of items of personal property having a unit acquisition cost of less than $200 or for subcontracts in a total amount less than $1,000 unless otherwise specified elsewhere in this contract: Provided, however, That advance notification shall be given by the Contractor of any subcontract which exceeds in dollar amount 5 percentum of the total estimated cost of this contract.

(d) Contractor's procurement system. The Contractor shall use methods, practices or procedures in subcontracting or purchasing (hereinafter referred to as the Contractor's "procurement system") acceptable to the Contracting Officer. The Contracting Officer may, at any time during the performance of this contract, require the Contractor to provide information concerning its procurement system.

(e) Effect of subcontracting. Subcontracts shall be made in the name of the Contractor and shall not bind nor purport to bind the Government. The making of subcontracts hereunder shall not relieve the Contractor of any requirement under this contract (including, but not limited to, the duty to properly supervise and coordinate the work of subcontracts, and the duty to maintain and account for property pursuant to the clause of this contract entitled "Government Property"). Approval of the provisions of any subcontract by the Contracting Officer shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost. In no event shall approval of any subcontract by the Contracting Officer be construed as effecting any increase in the estimated cost set forth in this contract. No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(f) Procurements from contractor-controlled sources. Procurement or transfer of equipment, materials, supplies, or services from contractor-controlled source (any division or other organizational component of the prime contractor, exclusive of the contracting component, and any subsidiary or affiliate of the Contractor under a common control) shall be considered a subcontract for the purpose of this clause.

Clause No. 11—Accounts, audit, and records.

(a) The Contractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitutes "records" for the purposes of this clause.

(b) The Contractor's facility(ies), or such part thereof as may be engaged in the performance of this contract, and his records shall be subject at all reasonable times to inspection and audit by the Contracting Officer or his authorized representative.

(c) The Contractor shall preserve and make available his records (1) until the expiration of 3 years from the date of final payment under this contract, or the time periods for the particular records specified in 41 CFR Part 1-20, whichever expires earlier and (2) for such longer period, if any, as is required by applicable statute, or by other clause of this contract, or by (i) or (ii) below.

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

(ii) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs and expenses of this contract to which exception has been taken by the Contracting Officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract hereunder that is not firm fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the higher-tier subcontractor at this level involved in place of the Contractor; to add "of the Government prime contract" in place of "this contract" in (B) of subparagraph (c)(ii) above.

Clause No. 12—Government property.

(a) Government furnished property. (1) The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (such property to be referred to as "Government furnished property").

In the event that Government furnished property is not delivered to the contractor by such time or times as stated, or if not stated, in sufficient time to enable the contractor to meet such delivery or performance dates under this contract, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and make appropriate equitable adjustments to any contractual provisions affected by any such delay in accordance with the provisions of the clause of this contract entitled "Changes."

In the event that Government furnished property is received by the Contractor in a condition not suitable for the intended use, the contractor shall, immediately upon receipt thereof, notify the Contracting Officer of such fact, and, as directed by the Contracting Officer either (i) return or otherwise dispose of such property, or (ii) effect repairs or modification thereto. Upon completion of (i) or (ii) above, the Contracting Officer, upon timely written request of the Contractor, shall make appropriate equitable adjustments to any contractual provisions affected thereby in accordance with the provisions of the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government furnished property or delivery of such property in a condition not suitable for its intended use.

(b) Title. (1) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government property."

(2) Title to the Government property shall not be affected by the incorporation or attachment thereof to any property now owned by the Government, nor shall such Government property; or any part thereof, be or become a fixture or lose its identity or personality by reason of affixation to any realty.

(c) Use of Government property. Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(d) Property management and control. The Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, and preservation, control of and accountability for Government property, so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall comply with Federal, State, and local laws, codes, ordinances, regulations, and orders pertaining to standards of construction, safety, environmental quality, energy conservation, historic site preservation, facilities for the handicapped, emergency preparedness, and other requirements that are applicable to the physical characteristics, operation, and maintenance of Government property. The Contractor agrees to

promptly receipt for all Government property in a form and manner as prescribed by the Contracting Officer. The Contractor further agrees to take all reasonable steps to comply with all directions or instructions which the Contracting Officer may prescribe regarding the management and control of Government property.

(e) Risk or loss. (1) The Contractor shall not be liable for any loss of or damage to Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of (A) all or substantially all of the Contractor's operations at any one plant, laboratory or separate location in which this contract is being performed or (B) a separate and complete major organization, industrial or otherwise in connection with the performance of this contract;

(ii) Which results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in subparagraph (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of Government property as required by paragraph (d) hereof, or (B) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under paragraph (4) hereof;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement: Provided That, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) If the Contractor transfers Government property to the possession and control of a subcontractor the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to Government property as set forth in (1) above. The Contractor shall require the subcontractor to assume the risk of and be responsible for any loss or destruction of or damage to Government property while in the latter's possession or control, and the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received (except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of this contract). Provided, however, That the subcontractor may be relieved from such liability only to the extent that the subcontract, with the prior approval of the Contracting Officer, so provides.

(3) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provisions for a reserve, covering the risk of loss or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(4) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovation of the damaged Government property, or take such other action as the Contracting Officer directs.

(5) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, it shall use the proceeds to repair, renovate, or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The loss, destruction or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(f) Disposition of Government property. (1) During the period of performance of this contract, the Contractor shall promptly and regularly report to the Contracting Officer, in such form and manner as the Contracting Officer may direct, concerning the status of Government property under the contract, including all Government property in the Contractor's possession which is not in use or which is excess to the needs of the contract. The Contractor shall make such disposition of Government property as the Contracting Officer may direct. The Contractor shall in no way be relieved of responsibility for Government property without the prior written approval of the Contracting Officer.

(2) Upon completion or expiration of this contract, or at such earlier date as may be fixed by the Contracting Officer, the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all Government property which had come into the possession or custody of the Contractor under this contract. Such accounting shall include inventory schedules covering all items of Government property not consumed in the performance of this contract, or not theretofore delivered to the Government, or for which the Contractor has not otherwise been relieved of responsibility. The Contractor shall deliver or make such other disposition of Government property covered in such inventory schedules as the Contracting Officer may direct.

(3) The net proceeds of any disposition of Government property, in accordance with (1) and (2) above, shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct.

(g) Restoration of premises. Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's facility or any portion thereof which is affected by removal of any Government property.

Clause No. 13—Changes.

The Contracting Officer may at any time, with the consent of the Contractor, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (a) Drawings, designs, or specifications; (b) method of shipment or packing; (c) place of inspection, delivery, or acceptance; and (d) the amount of Government furnished property. If any such change causes an increase or decrease in the estimated cost of, or the time required for performance of this contract, or otherwise affects any other provisions of this contract, whether changed or not by any such order, an equitable adjustment shall be made (a) in the estimated cost or delivery schedule, or both, and (b) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: Provided, however, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled, "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

Clause No. 14—Notice to the Government of delays.

Whenever the Contractor has knowledge that any actual or potential situation, including, but not limited to, labor disputes, is delaying or threatens to delay the timely performance of the work under this contract, the Contractor shall immediately give written notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

Clause No. 15—Retrocession.

(a) The Indian tribe that initially requested this contract may also request its retrocession, notwithstanding the fact that the Contractor may be a tribal organization other than the tribe.

(b) Should the tribe request retrocession of the contract and the Contractor is other than the Tribe, the Contracting Officer will notify the Contractor of the request and in consultation with the Tribe and the Contractor establish the effective date of the retrocession. The retrocession will become effective no later than 120 days after the Contracting Officer receives the Tribe's request unless the Tribe and the Contracting Officer mutually agree on a later date.

(c) Immediately after receipt of the request for retrocession and where applicable notifying the Contractor, the Contracting Officer will meet with the Contractor and, where applicable, the tribal governing body or bodies, mutually agree to:

(1) A plan for the orderly transfer of responsibilities;

(2) A plan for inventorying materials and supplies on hand;

(3) An accounting for funds, including but not limited to current and anticipated obligations;

(4) The cost of operation until retrocession; and,

(5) The identification of all records relating to the contract and the contracted function.

Clause No. 16—Assumption and Reassumption of Contract Programs.

(a) When the Director or his delegate determines that the performance of a contractor under these regulations involves (1) the violation of the rights or endangerment of the health, safety, or welfare or any persons, or (2) gross negligence or the mismanagement in the handling or use of funds under the contract, he will, in writing, notify the contractor of such determinations and will request that the contractor take such corrective action within such period of time as the Director or his delegate may prescribe.

(b) When the Director or his delegate determines that a contractor has not taken corrective action (as prescribed by him under paragraph (a) of this section) to his satisfaction, he may, after the contractor has been provided an opportunity for a hearing in accordance with paragraph (c) of this section, rescind the contract in whole or in part and, if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved.

(c) (1) When the Director or his delegate has made a determination described in paragraph (b) of this section, he shall in writing notify the contractor of such determination and of the contractor's right to request a review of such determination and of the determination described in paragraph (a) of this section. Such notification by the Director or his delegate shall set forth the reasons for the determination in sufficient detail to enable the contractor to respond and shall inform the contractor of its right to a hearing on the record before a Contract Appeals Board described in paragraph (d) of this section. Upon the request of the contractor for a hearing, the Board, established pursuant to paragraph (d) of this section shall in writing within 10 days of the establishment notify the contractor of the time, place and date of the hearing which will be held not later than 45 days after the request for a hearing.

(2) Where the Director or his delegate determines that a contractor's performance under a contract awarded under this subpart poses an immediate threat to the safety of any person, he may immediately rescind the contract in whole or in part and, if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved. Upon such a decision he will immediately notify the contractor of such action and the basis therefor; and offer the contractor an opportunity for a hearing on the record before the Contract Appeals Board established pursuant to paragraph (d) of this section to be held within 10 days of each action.

(d) (1) The Contract Appeals Board shall be composed of 3 persons appointed by the Director, Indian Health Service. Such persons may not be selected from the immediate office of any person participating in the determinations at issue. The Board shall afford the contractor the right:

(i) To notice of the issues to be considered;

(ii) To be represented by counsel;

(iii) To present witnesses on contractor's behalf;

(iv) To cross-examine other witnesses either orally or through written interrogatories; and

(v) To compel the appearance of Indian Health Service personnel or to take depositions of such persons at reasonable times and places.

(2) The Contract Appeals Board shall make an initial written decision which shall become final within 20 days unless the Director, Indian Health Service or his representative modifies or reverses the decision. Any such decision by the Director of the Indian Health Service or his representative be in writing, shall be specific as to the reasons for such decision, and shall be considered final.

(3) Where Board is considering issues arising under paragraph (2) of this section, the Board shall within 25 days after the conclusion of the hearing, notify all parties in writing of its decision.

(e) In any case where the officer has rescinded a contract under paragraphs (b) or (c) of this section, he may decline to enter into a new contract agreement with the contractor until such time as he is satisfied that the basis for the rescission has been corrected.

Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

Clause No. 17—Key personnel.

Where "key personnel" have been identified in this contract, it has been determined that such named personnel are necessary for the successful performance of the work under this contract; and the Contractor agrees to assign such personnel to the performance of the work under this contract, and shall not reassign or remove any of them without the consent of the Contracting Officer. Whenever, for any reason, one or more of the aforementioned personnel is unavailable for assignment for work under the contract, the Contractor shall immediately notify the Contracting Officer to that effect and shall, subject to the approval of the Contracting Officer without formal modification to the contract, replace such personnel with personnel of substantially equal ability and qualifications.

Clause No. 18—Litigation and Claims.

The Contractor shall give the Contracting Officer immediate notice in writing of (a) any action, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract, including, but not limited to, the performance of any subcontract hereunder; and (b) any claim against the Contractor the cost and expense of which is allowable under the clause entitled "Allowable Cost," except as otherwise directed by the Contracting Officer, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to such action or claim. To the extent not in conflict with any applicable policy of insurance, the Contractor may, with the Contracting Officer's approval, settle any such action or claim. If required by the Contracting Officer, the Contractor shall (a) effect an assignment and subrogation in favor of the Government of all the Contractor's rights and claims (except those against the Government) arising out of any such action or claim against the Contractor; and (b) authorize representatives of the Government to settle or defend any such action or claim and to represent the Contractor in, or to take charge of any action. If the settlement or defense of an action or claims is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered by a policy of insurance, the Contractor shall, with the approval of the Contracting Officer, proceed with the defense of the action in good faith. The Government shall not be liable for the expense of defending any action or for any costs resulting from the loss thereof, to the extent that the Contractor would have been compensated by insurance which was required by law or regulation or by written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

In any event, unless otherwise expressly provided in this contract, the Contractor shall not be reimbursed or indemnified by the Government for any liability loss, cost or expense, which the Contractor may incur or be subject to by reason of any loss, injury, or damage, to the person or to real or personal property of any third parties as may accrue during, or arise from, the performance of this contract.

Clause No. 19—Indemnity and insurance.

(a) The Contractor shall indemnify and save and keep harmless the Government against any or all loss, cost, damage, claim, expense or liability whatsoever, because of accident or injury to persons or property or others occurring in connection with any program included as a part of this contract, by providing where applicable, the insurance described below:

(b) The Contractor shall secure, pay the premium for, and keep in force until the expiration of this contract, or any renewal period thereof, insurance as provided below. Such insurance policies shall specifically include a provision stating the liability assumed by the Contractor under this contract.

(1) Workman's compensation insurance as required by laws of the state.

(2) Owner's landlord's and tenant's bodily injury liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(3) Property damage liability insurance with limits of not less than $25,000 for each accident.

(4) Automobile bodily injury liability insurance with limits of not less than $50,000 for each person, and $500,000 for each accident and property damage liability insurance with a limit of not less than $5,000 for each accident.

(5) Food products liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(6) Professional malpractice insurance where medical, dental and other health professional services are involved.

(7) Other liability insurance not specifically mentioned when required.

(c) Each policy of insurance shall contain an endorsement providing that cancellation by the insurance company shall not be effective unless a copy of the cancellation is mailed (registered) to the Contracting Officer 30 days prior to the effective date of cancellation.

(d) A certificate of each policy of insurance, and any changed therein, shall be furnished to the Contracting Officer immediately upon receipt from the insurance company.

(e) Insurance companies of the Contractor shall be satisfactory to the Contracting Officer. When in his opinion an insurance company is not satisfactory for reasons that will be stated, the Contractor shall provide insurance through companies that are satisfactory to the Contracting Officer.

(f) Each policy of insurance shall contain a provision that the insurance carrier waives any rights it may have to raise as a defense the tribe's sovereign immunity from suit, but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy of insurance. The policy shall contain no provision, either express or implied, that will serve to authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy insurance.

Clause No. 20—Overtime.

Except as authorized by Section 1-12.102-5 of the Federal Procurement Regulations as in effect on the effective date of this contract or otherwise provided in this contract, the Contractor shall not perform overtime work under or in connection with this contract required to be paid, without specific written approval from the Contracting Officer.

Clause No. 21—Foreign travel.

Foreign travel shall not be performed without the prior written approval of the Contracting Officer. As used in this clause "Foreign Travel" means travel outside the United States, its Territories and Possessions, and Canada.

Clause No. 22—Questionnaire and surveys.

In the event the performance of this contract involves the collection of information upon identical items from 10 or more persons, other than Federal employees, the Contractor shall obtain written approval from the Contracting Officer, prior to the use thereof, of any forms, schedules, questionnaires, survey plans or other documents, and any revisions thereto, intended to be used in such collection

Clause No. 23—Printing.

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract: Provided, however, That performance of a requirement under this contract involving the reproduction of less than 5,000 production units of any one page or less than 25,000 production units in the aggregate of multiple pages, will not be deemed to be printing. A production unit is defined as one sheet, size 8 by 10½ inches, one side only, one color.

Clause No. 24—Services of consultants.

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled "Subcontracting," the prior written approval of the Contracting Officer shall be required:

(a) Whenever any employee of the Contractor is to be reimbursed as a "consultant" under this contract; and

(b) For the utilization of the services of any consultant under this contract exceeding the daily rate set forth elsewhere in this contract or, if no amount is set forth, $100, exclusive of travel costs, or where the services of any consultant under this contract will exceed 10 days in any calendar year. Whenever Contracting Officer approval is required, the Contractor will obtain and furnish to the Contracting Officer information concerning the need for such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultant to others for performing consultant services of a similar nature.

Clause No. 25—Assignment of claims.

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating $1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payment to assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act and is with the Department of Defense, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

Clause No. 26—Contract Work Hours and Safety Standards Act—overtime compensation.

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330), is subject to the following provisions and to all other applicable provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts for any tier.

(e) Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract. This requirement does not apply where the tribal contractor is the governing body of the tribe and the work is being performed by the tribal contractor or the tribe with its regular employees.

Clause No. 27—Walsh-Healey Public Contracts Act.

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S. Code 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are nor or may hereafter be in effect. This requirement does not apply where the tribal contractor is the governing body of the tribe and the work is being performed by the tribal contractor or the tribe with its regular employees.

Clause No. 28—Equal opportunity. See Attachment A for Equal Opportunity.

Clause No. 28—Equal opportunity.

Subject to the Indian preference in training and employment of Clause 29 during the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Or-

der No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Clause No. 30—Certificate of nonsegregated facilities.

By signing the contract the Contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to prospective subcontractors of requirement for certifications of nonsegregated facilities.

A certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually).

Clause No. 31—Convict labor.

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor, except as provided by Public Law 89–176, September 10, 1965 (18 U.S.C. 4082(c)(2) and Executive Order No. 11755, December 29, 1973.

Clause No. 32—Officials not to benefit.

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

Clause No. 33—Buy American Act supply and service contracts.

(a) In acquiring end products, the Buy American Act (41 U.S. Code 10a–d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) "Components" means those articles, materials, and supplies which are directly incorporated in the end products;

(ii) "End products" means those articles, materials, and supplies which are to be acquired under this contract for public use; and

(iii) A "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. For the purposes of this (a)(iii)(B), components of foreign origin of the same type or kind as the products referred to in (b)(ii) or (iii) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(b) The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Secretary determines the domestic preference to be inconsistent with the public interest; or

(iv) As to which the Secretary determines the cost to the Government to be unreasonable.

(The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954.)

Clause No. 34—Anti-Kickback Act.

(a) Public Law 86–695, September 2, 1960 (41) U.S.C. 51–54) among other things prohibits the payment, directly or indirectly, by or on behalf of a Subcontractor in any tier under any Government negotiated contract of any fee, gift, or gratuity to the prime contractor or any higher tier subcontractor or any officer, agent, partner or employee thereof, as an inducement or acknowledgment for the award of a subcontract or order.

(b) The provisions of Public Law 86–695, are set forth in more detail in § 1–1.320 of the Federal Procurement Regulations (41 CFR 1–1) and are applicable to this contract and any subcontracts entered into under the contract.

Clause No. 35—Use of Indian business concerns.

(a) As used in this clause, the term "Indian business concern" means Indian organizations or an Indian-owned economic enterprise as defined in 42 CFR § 36.204(1).

(b) The contractor agrees to give preference to qualified Indian business concerns in the awarding of any subcontracts entered into under the contract consistent with the efficient performance of the contract. The contractor shall comply with any preference requirements regarding Indian business concerns established by the tribe(s) receiving services under the contract to the extent that such requirements are not inconsistent with the purpose and intent of this paragraph.

(c) If no Indian business concerns are available under the conditions in paragraph (b) above, the contractor agrees to accomplish the maximum amount of subcontracting, as the contractor determines is consistent with its efficient performance of the contract, with small business concerns, labor surplus area concerns or minority business enterprises, the definitions for which are contained in Subparts 1–1.7, 1–1.8, and 1–1.13 of the Federal Procurement Regulations. The contractor is not, however, required to establish a small business, labor surplus, or minority business subcontracting program as described in § 1–1.710–3(b), § 1–1.805–3(b) and § 1–1.1310–2(b) respectively of the Federal Procurement Regulations (41 CFR Chapter 1).

Clause No. 36—Payment of interest on contractors' claims.

(a) If an appeal is filed by the contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92–41, 85 Stat. 97, from the date the Contractor furnishes to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

The Contractor further agrees to comply with any rules, regulations and reporting requirements which may be imposed by the DHEW Office for Civil Rights for purposes of insuring the proper exercise of this authority.

The Contractor agrees to insert this clause in all subcontract(s) under this contract.

Clause No. 37—Fair and equal treatment of Indian people.

(a) The Contractor agrees consistent with medical needs to make no discriminatory distinctions among Indian patients or beneficiaries of this contract. For the purpose of this contract discriminatory distinctions include but are not limited to the following:

(i) denying a patient any service or benefit or availability of a facility;

(ii) providing any service or benefit to a patient which is different, or is provided on a different manner or at a different time from that provided to other patients under this contract; subjecting a patient to segregation or separate treatment in any manner related to his receipt of any service; restricting a patient in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a patient differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility membership, or other requirements or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of discriminatory distinctions which may be made of the patients to be served.

(b) The Government reserves the right to reassume this contract in whole or in part whenever the Contractor fails to comply with the requirements of this clause.

Clause No. 38—Price reduction for defective cost or pricing data.

The following clause applies to all contracts where cost and pricing data is required in accordance with Pub. L. 87–653.

Price Reduction for Defective Cost or Pricing Data

(a) If the Contracting Officer determines that any price negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because the Contractor, or any subcontractor pursuant to the Clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data-Price Adjustments," or any subcontract clause therein required, furnished incomplete or inaccurate cost or pricing data or data not current as certified in his Contractor's Certificate or Current Cost or Pricing Data, then such price or cost shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnity the contractor. It is also expected that any subcontractor subject to such indemnification will generally substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

Clause No. 39—Subcontractor cost and pricing data.

The following clause should be included in all contracts, when the subcontracts of the type and size described therein are contemplated.

Subcontractor Cost and Pricing Data

(a) The Contractor shall require subcontractors hereunder to submit in writing cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursed type, time and material, labor-hour, incentive, or price redeterminable subcontract the price of which is expected to exceed $100,000; and

(2) Prior to the award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification or which the price adjustment is expected to exceed $100,000, where the price or price adjustment is not based on adequate price competition, established catalog or market prices or commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, substantially the same form as that used in the certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (a) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each of his cost-reimbursement type, time and material, labor-hour, price redeterminable, or incentive subcontracts hereunder, and in any other subcontract hereunder which exceed $100,000 unless the price thereof is based on adequate price competition, established catalog or marker prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder which exceed $100,000, the Contractor shall insert the substance of the following clause:

Subcontractor Cost and Pricing Data-Price Adjustments

(a) Paragraph (b) and (c) of this clause shall become operative only with respect to any change or other modification made pursuant to one or more provisions of this contract which involves a price adjustment in excess of $100,000. The requirements of this clause shall be limited to such price adjustments.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursement type, time and material; labor-hour, incentive, or price redeterminable subcontract, the price of which is expected to exceed $100,000; and—

(2) Prior to award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000, there the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the Certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (b) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the contract modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000.

Clause No. 40—Penalties.

(a) Any officer, director, agent, employee or such other person connected in any capacity with this contract or any subcontract thereunder that embezzles, willfully misapplies, steals or obtains by fraud any of the money, funds, assets or property provided through the contract shall be fined not more than $10,000 or imprisoned for not more than two years, or both; Provided, That if the amount embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) The Contractor agrees to insert this clause in all subcontracts.

Clause No. 41—Effect on existing rights.

(a) Nothing in this contract shall be construed as—

(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity for suit enjoyed by an Indian tribe; or,

(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

§ 3–4.6014 General Provisions for Fixed-price Contracts Under the Indian Self-Determination Act.

Clause No. and Title

1. Definitions.
2. Disputes.
3. Contract Work Houres and Safety Standards Act-Overtime Compensation.
4. Walsh-Healey Public Contract Act.
5. Convict Labor.
6. Notice to the Government of Delays.
7. Assignment of Claims.
8. Officials not to Benefit.
9. Anti-Kickback Act.
10. Penalties.
11. Buy American Act.
12. Equal Opportunity.
13. Certificate of Nonsegregated Facilities.
14. Subcontracting.
15. Competition in Subcontracting.
16. Use of, Indian Business Concerns.
17. Indian Preference in Training and Employment.
18. Inspection.
19. Changes.
20. Retrocession.
21. Assumption and Reassumption of Contract Programs.
22. Payment of Interest on Contractors' Claims.
23. Government-Furnished Property.
24. Examination of Records by the Comptroller General.
25. Indemnity and Insurance.
26. Fair and Equal Treatment of Indian People.
27. Reports to the Indian People and annual reports.
28. Questionnaires and Surveys.
29. Printing.
30. Price Reduction for Defective Cost or Pricing.
31. Subcontractor Cost and Pricing Data.
32. Advance Payment.
33. Effect on Existing Rights.
34. Federal, State, and Local Taxes.

Clause No. 1—Definitions.

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health, Education, and Welfare; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or employee who is properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his authority.

(c) The term "Department" means the Department of Health, Education, and Welfare.

(d) The term "constituent agency" means the agency of the Department responsible for the administration of this contract.

(e) Except as otherwise provided in this contract, the term "subcontractor" includes purchase orders under this contract.

(f) The term "Project Officer" means the person representing the Government for the purpose of technical direction of contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increase or decrease in the cost of this contract or which change the period of this contract.

Clause No. 2—Disputes.

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "DISPUTES" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: Provided, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Clause No. 3—Contract Work Hours and Safety Standards Act-overtime compensation.

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330), is subject to the following provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities or such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract. This requirement does not apply where the tribal contractor is the governing body of the tribe and the work is being performed by the tribal organization or tribe with its own regular employees.

Clause No. 4—Walsh-Healey Public Contracts Act.

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S. Code 34-45), there are hereby incorporated by reference all representations and stipulations required by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect. This requirement does not apply where the tribal contractor is the governing body of the tribe and the work is being performed by the tribal organization or tribe with its own regular employees.

Clause No. 5—Convict labor.

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2) and Executive Order No. 11755, December 29, 1973.

Clause No. 6—Notice to the government of delays.

Whenever the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Contractor shall within ten days give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

Clause No. 7—Assignment of claims.

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payment aggregating $1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payments to assignee of any moneys due to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act and is with the Department of Defense, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

Clause No. 8—Officials not to benefit.

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

Clause No. 9—Anti-Kickback Act.

(a) Public Law 86-695, September 2, 1960 (41 U.S.C. 51-54) among other things, prohibits the payment, directly or indirectly, by or on behalf of a subcontractor in any tier under any Government negotiated contract of any fee, gift, or gratuity to the prime contractor or any higher tier subcontractor or any officer, agent, partner or employee thereof, as an inducement or acknowledgement for the award of a subcontract or order.

(b) The provisions of Public Law 86-695, are set forth in more detail in § 1-1.320 of the Federal Procurement Regulations (41 CFR 1-1) and are applicable to this contract and any subcontracts entered into under the contract.

Clause No. 10—Penalties.

(a) Any officer, director, agent, employee or such other person connected in any capacity with this contract or any subcontract thereunder that embezzles, willfully misappites, steals or obtains by fraud any of the money, funds, assets or property provided through the contract shall be fined not more than $10,000 or imprisoned for not more than two years, or both; Provided, That if the amount embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) The contractor agrees to insert this clause in all subcontracts.

Clause No. 11—Buy American Act.

(a) In acquiring end products, the Buy American Act (41 U.S. Code 10 a-d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) "Components" means those articles, materials, and supplies, which are directly incorporated in the end products;

(ii) "End products" means those articles, materials, and supplies, which are to be acquired under this contract for public use; and

(iii) A "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manu-

factured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. For the purposes of this (a) (iii) (B), components of foreign origin of the same type or kind as the products referred to in (b) (ii) or (iii) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(b) The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Secretary determines the domestic preference to be inconsistent with the public interest; or

(iv) As to which the Secretary determines the cost to the Government to be unreasonable.

(The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954).

Clause No. 12—Equal Opportunity.

Subject to the Indian preference requirements of Clause 17, during the performance of this contract the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Clause No. 13—Certificate of nonsegregated facilities.

By signing the contract the Contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "Segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to prospective subcontractors of requirement for certifications of nonsegregated facilities.

A certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually).

Clause No. 14—Subcontracting.

The Contractor shall not enter into subcontracts for any of the work contemplated under this contract without obtaining the prior written approval of the Contracting Officer and subject to such conditions and provisions as he may deem necessary, in his discretion, to protect the interests of the Government: Provided, however, That notwithstanding the foregoing, unless otherwise provided herein, such prior written approval shall not be required for the purchase by the Contractor of articles, supplies, equipment and services which are both necessary for and merely incidental to the performance of the required under this contract; Provided, further, however, That the aforesaid right of Contractor to engage such services shall in no event be construed to permit the Contractor to subcontract with a third-party for the performance of any major function contemplated under this contract to be performed by the Contractor; and Provided, further, however, That no provision of this clause and no such approval by the Contracting Officer of any subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation of the Government in addition to the total contract price.

Clause No. 15—Competition in subcontracting.

The Contractor agrees to select subcontractors on a competitive basis to the maximum practical extent consistent with the objectives and requirements of this contract.

Clause No. 16—Use of Indian Business Concerns.

(a) As used in this clause, the term "Indian business concern" means Indian organizations or an Indian-owned economic enterprise as defined in 42 CFR § 36.204(i).

(b) The Contractor agrees to give preference to qualified Indian business concerns in the awarding of any sub-contracts entered into under the contract consistent with efficient performance of the contract. The Contractor shall comply with any preference requirements regarding Indian business concerns established by the tribe(s) receiving services under the contract to the extent that such requirements are not inconsistent with the purpose and intent of this paragraph.

(c) If no Indian business concerns are available under the conditions in paragraph (b) above, the Contractor agrees to accomplish the maximum amount of subcontracting, as the Contractor determines is consistent with its efficient performance of the contract, with small business concerns, labor surplus area concerns or minority business enterprises, the definitions for which are contained in Subparts 1-1.7, 1-1.8, and 1-1.13 of the Federal Procurement Regulations. The Contractor is not, however, required to establish a small business, labor surplus, or minority business subcontracting program as described in § 1-1.710-3(b), § 1-1.805-3(b), and § 1-1.1310-2(b) respectively of the Federal Procurement Regulations (41 CFR Chapter 1).

Clause No. 17—Indian Preference in Training and Employment.

(a) The Contractor shall give preference in employment for all work performed under the contract, including subcontracts thereunder, to qualified Indians regardless of age, religion or sex, and to the extent feasible consistent with the efficient performance of the contract, provide employment and training opportunities to Indians, regardless of age, religion, or sex, that are not fully qualified to perform under the contract. The Contractor shall comply with any Indian preference requirements established by the tribe receiving services under the contract to the extent that such requirements are not inconsistent with the purpose and intent of this paragraph.

(b) If the Contractor or any of its subcontractors is unable to fill its employment openings after giving full consideration to Indians as required in paragraph (a) above, these employment openings may then be filled by other than Indians under the conditions set forth in the Equal Opportunity clause of this contract.

(c) The Contractor agrees to include this clause or one similar thereto in all subcontracts issued under the contract.

Clause No. 18—Inspection.

The Government, through any authorized representatives, has the right, at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection, or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

Clause No. 19—Changes.

The Contracting Officer may at any time, with the consent of the Contractor, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following (i) drawings, designs, or specifications, (ii) place of inspection, delivery, or acceptance, and (iv) the amount of Government-furnished property. If any such change causes an increase or decrease in the cost of, or the time required for performance of, this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the contract price or time of performance, or both, and (ii) in such provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: Provided, however, That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

Clause No. 20—Retrocession.

(a) The Indian tribe that initially requested this contract may also request its retrocession, notwithstanding the fact that the Contractor may be a tribal organization other than the tribe.

(b) Should the tribe request retrocession of the contract and the Contractor is other than the Tribe, the Contracting Officer will notify the Contractor of the request and in consultation with the Tribe and the Contractor establish the effective date of the retrocession. The retrocession will become effective no later than 120 days after the Contracting Officer receives the Tribe's request unless the Tribe and the Contracting Officer mutually agree on a later date.

(c) Immediately after receipt of the request for retrocession and where applicable notifying the Contractor, the Contracting Officer will meet with the Contractor and, where applicable, the tribal governing body or bodies mutually agree to—

(1) A plan for the orderly transfer of responsibilities;

(2) A plan for inventorying materials and supplies on hand;

(3) An accounting for funds, including but not limited to current and anticipated obligations;

(4) The cost of operation until retrocession; and,

(5) The identification of all records relating to the contract and the contracted function.

Clause No. 21—Assumption and Reassumption of Contract Programs.

(a) When the contracting officer determines that the performance of a contractor under these regulations involves (1) the violation of the rights or endangerment of the health, safety, or welfare or any person, or (2) gross negligence or the mismanagement in the handling or use of funds under the contract, the contracting officer will, in writing, notify the contractor of such determination and will request that the contractor take such corrective action within such period of time as the Secretary may prescribe.

(b) When the Director or his delegate determines that a contractor has not taken corrective action (as prescribed by him under paragraph (a) of this section) to his satisfaction, he may, after the contractor has been provided an opportunity for a hearing in accordance with paragraph (c) of this section, rescind the contract in whole or in part and, if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved.

(c)(1) When the Director or his delegate has made a determination described in paragraph (b) of this section, he shall in writing notify the contractor of such determination and of the contractor's right to request a review of such determination and of the determination described in paragraph (a) of this section. Such notification by the Director or his delegate shall set forth the reasons for the determination in sufficient detail to enable the contractor to respond and shall inform the contractor of its right to a hearing on the record before a Contract Appeals Board described in paragraph (d) of this section. Upon the request of the contractor for a hearing, the Board, established pursuant to paragraph (d) of this section shall in writing within 10 days of the establishment notify the contractor of the time, place and date of the hearing which will be held not later than 45 days after the request for a hearing.

(2) Where the Director or his delegate determines that a contractor's performance under a contract awarded under this subpart poses an immediate threat to the safety of any person, he may immediately rescind the contract in whole or in part and, if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved. Upon such a decision he will immediately notify the contractor of such action and the basis therefor; and offer the contractor an opportunity for a hearing on the record before the Contract Appeals Board established pursuant to paragraph (d) of this section to be held within 10 days of each action.

(d)(1) The Contract Appeals Board shall be composed of 3 persons appointed by the Director, Indian Health Service. Such persons may not be selected from the immediate office of any person participating in the determinations at issue. The Board shall afford the contractor the right:

(i) To notice of the issues to be considered;

(ii) To be represented by counsel;

(iii) To present witnesses on contractor's behalf;

(iv) To cross-examine other witnesses either orally or through written interrogatories; and

(v) To compel the appearance of Indian Health Service personnel or to take depositions of such persons at reasonable times and places.

(2) The Contract Appeals Board shall make an initial written decision which shall become final within 20 days unless the Director, Indian Health Service or his representative modifies or reverses the decision. Any such decision by the Director of the Indian Health Service or his representative be in writing, shall be specific as to the reasons for such decision, and shall be considered final.

(3) Where Board is considering issues arising under paragraph (2) of this section, the Board shall within 25 days after the conclusion of the hearing, notify all parties in writing of its decision.

(e) In any case where the officer has rescinded a contract under paragraphs (b) or (c) of this section, he may decline to enter into a new contract agreement with the contractor until such time as he is satisfied that the basis for the rescission has been corrected.

Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

(e) In any case where the contracting officer has rescinded a contract under paragraphs (b) or (d) of this section, he may decline to enter into a new contract agreement with the contractor until such time as he is satisfied that the basis for the rescission has been corrected.

Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

Clause No. 22—Payment of interest on contractors' claims.

(a) If an appeal is filed by the contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owned by the Government shall be payable to the Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the Contractor furnished to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

Clause No. 23—Government-furnished property.

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-Furnished Prop-

erty"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-Furnished Property suitable for use will be delivered to the Contractor at the times stated elsewhere in this contract or, if not so stated, in sufficient time to enable the Contractor by such time or times, the formance dates. In the event that Government-Furnished Property is not delivered to the Contractor to meet such delivery or per- Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor occasioned the Contractor thereby, and shall equitably adjust the delivery, or performance dates or the contract price, or both, and any other contractual provision affected by the delay. In the event that Government-Furnished Property is received by the Contractor in a condition not suitable for its intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of such property, or (2) effect repairs or modifications. Upon completion of (1) or (2) above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision effected by the return, disposition, repair or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-Furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) By notice in writing the Contracting Officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance dated or the contract price, or both, and any other contractual provisions affected by the decrease.

(c) Title to the Government-Furnished Property shall remain in the Government. Title to Government-Furnished Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-Furnished Property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any reality.

(d) The Government-Furnished Property, unless otherwise specifically provided herein, and except as otherwise approved or directed by the Contracting Officer in writing, shall be used exclusively for the performance of this contract.

(e) The Contractor shall maintain and administer, in accordance with sound business practice, a program for the maintenance, repair, protection and preservation of Government-Furnished Property, until disposed of by the Contractor in accordance with this clause. In the event that any damage occurs to Government-Furnished Property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property, as the Government directs; Provided, however, That if the Contractor cannot effect such repair within the time required, the Contractor may reject such property. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible; and an equitable adjustment will be made in the contract price for any such repair or replacement of Government-Furnished Property made at the direction of the Government. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at its own expense.

(f) The Contractor also agrees to maintain and administer, in accordance with sound business practice, a property control system which will provide the following: Contract number; nomenclature of item; quantity received; issued; and balance on hand; posting reference to include date received, issued unit price and location; marking or identification of item; adequate maintenance, storage, and security of Government-Furnished Property, until disposed of by the Contractor in accordance with this clause. The Contractor further agrees to receipt promptly for all Government property in a form and manner as prescibed by the Contracting Officer.

(g) The Contractor agrees to make available to authorized representatives of the Contracting Officer at all reasonable times at the office of the Contractor all of its property records under this contract, and access to any premises where any of the Government-Furnished Property is located.

(h) (i) The Contractor shall not be liable for any loss of or damage to the Government-Furnished Property, or for expenses incidental to such loss or damage except that the Contractor shall be liable for any such loss or damage (including expenses incidental thereto):

(A) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed; or

(B) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in subparagraph (A) above, to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection and preservation of Government-Furnished Property as required by subparagraph (e) above; or

(C) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in this contract; or

(D) Which results from a risk expressly required to be insured under some other provision of this contract, or of the schedules or task orders thereunder, but only to the extent of the insurance so required to be procured and maintained or to the extent of insurance actually procured and maintained, whichever is greater; or

(E) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement; Provided, That, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(ii) The Contractor represents that it is not including in the price hereunder, and agrees that it will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to the Government-Furnished Property, except to the extent that the risk of loss is imposed on the Contractor under (i) (C) above, or insurance has been required under (i) (D) above.

(iii) Upon the happening of loss or destruction of or damage to any Government-Furnished Property, the Contractor shall notify the Contracting Officer thereof and shall take all reasonable steps to protect the Government-Furnished Property from furthere damage, separate the damaged and undamaged Government-Furnished Property in the best possible order, and furnish to the Contracting Officer a statement of:

(A) The lost, destroyed and damaged Government-Furnished Property;

(B) The time and origin of the loss, destruction or damage;

(C) All known interest in commingled property of which the Government-Furnished Property is a part; and

(D) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall be reimbursed for the expenditures made by it in performing its obligations under the subparagraph (iii), to the extent approved by the Contracting Officer and set forth in a supplemental agreement or amendment to this contract.

(iv) With the prior written approval of the Contracting Officer after loss or destruction of or damage to Government-Furnished Property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government-Furnished Property which has been damaged beyond practicable repair, or which is so commingled or combined with property of other, including the Contractor, that separation is impracticable.

(v) Except to the extent of any loss or destruction of or damage to Government-Furnished Property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government-Furnished Property in accordance with the provisions of this contract, the Government-Furnished Property (other than property permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (e) above.

(vi) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government-Furnished Property, it shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(i) Upon completion or expiration of this contract, any Government property which has not been consumed in the performance of this contract or which has not been previously disposed of in accordance with the provisions of this clause, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of as the Contracting Officer may direct. The Contractor shall in no way be relieved of responsibility for Government property without the prior written approval of the Contracting Officer.

(j) If the Contracting Officer determines that the interests of the Government require removal of any Government-Furnished Property, or if the Contractor determines any

Government-Furnished Property to be in excess of its need under this contract, such Government-Furnished Property shall be disposed of in the same manner as covered by paragraph (i) above. In the event that the Contracting Officer requires the removal of any Government-Furnished Property under this paragraph (j) or paragraph (i) above, upon timely written request of the Contractor, an equitable adjustment shall be made in the contract price to cover the direct cost to the Contractor of such removal and of any property damage occasioned thereby.

Clause No. 24—Examination of records by the Comptroller General.

(a) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(b) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years final payment under the subcontract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

Clause No. 25—Indemnity and insurance.

(a) The Contractor shall indemnify and save and keep harmless the Government against any or all loss, cost, damage, claim, expense or liability whatsoever, because of accident or injury to persons or property or others occurring in connection with any program included as a part of this contract, by providing where applicable, the insurance described below:

(b) The Contractor shall secure, pay the premium for, and keep in force until the expiration of this of this contract, or any renewal period thereof, insurance as provided below. Such insurance policies shall specifically include a provision stating the liability assumed by the Contractor under this contract.

(1) Workman's compensation insurance as required by laws of the state.

(2) Owner's landlord's and tenant's bodily injury liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(3) Property damage liability insurance with limits of not less than $25,000 for each accident.

(4) Automobile bodily injury liability insurance with limits of not less than $50,000 for each person, and $500,000 for each accident and property damage liability insurance with a limit of not less than $5,000 for each accident.

(5) Food products liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(6) Professional malpractice insurance where medical, dental or other health professional services are involved.

(7) Other liability insurance not specifically mentioned when required.

(c) Each policy of insurance shall contain an endorsement providing that cancellation by the insurance company shall not be effective unless a copy of the cancellation is mailed (registered) to the Contracting Officer 30 days prior to the effective date of cancellation.

(d) A certificate of each policy of insurance, and any changed therein, shall be furnished to the Contracting Officer immediately upon receipt from the insurance company.

(e) Insurance companies of the Contractor shall be satisfactory to the Contracting Officer. When in his opinion an insurance company is not satisfactory for reasons that will be stated, the Contractor shall provide insurance through companies that are satisfactory to the Contracting Officer.

(f) Each policy of insurance shall contain a provision that the insurance carrier waives any rights it may have to raise as a defense the tribe's sovereign immunity from suit, but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy of insurance. The policy shall contain no provision, either express or implied, that will serve to authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

Clause No. 26—Fair and equal treatment of Indian people.

(a) The Contractor agrees to make no discriminatory distinctions among Indian patients or beneficiaries of this contract. For the purpose of this contract discriminatory distinctions include but are not limited to the following:

(i) Denying a patient any service or benefit or availability of a facility;

(ii) Providing any service or benefit to a patient which is different, or is provided on a different manner or at a different time from that provided to other patients under this contract; subjecting a patient to segregation or separage treatment in any manner related to his receipt of any service; restricting a patient in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a patient differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility membership, or other requirements or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of discriminatory distinctions which may be made of the patients to be served.

(b) The Government reserves the right to terminate this contract in whole or in part whenever the Contractor fails to comply with the requirements of this clause.

Clause No. 27—Reports to the Indian people and annual reports.

(a) The Contractor, as a recipient of Federal financial assistance, shall make reports and information available to the Indian people serviced or represented by the contractor. Such reports will reflect how the Federal assistance funds were utilized to the benefit of the Indian people served or represented as follows: (specific reporting requirements, formats and methods of distribution to the Indian people will be prescribed in the scope of the contract.)

(b) Annual reports.

(1) For each fiscal year during which a tribal organization receives or expends funds pursuant to a contract under this Part, the tribe which requested the contract must submit a report to the Contracting Officer. The report shall include, but not be limited to, an accounting of the amounts and purposes for which the contract funds were expended and information on the conduct of the program or services involved. The report shall include any other information requested by the Contracting Officer and may be submitted as follows:

(i) When the contract is with the governing body of an Indian tribe, the tribe shall submit the report to the Contracting Officer.

(ii) When the contract is with a tribal organization other than the governing body of the tribe, the tribe has the option of having the tribal organization prepare the report and submit it to the tribe for review and approval before the tribe submits it to the Contracting Officer.

(iii) When the contract benefits more than one tribe, the tribal organization shall prepare and submit the report to each of the tribes benefiting under the contract. Each tribe shall endorse the report before submitting it to the Contracting Officer.

(2) The annual report shall be submitted to the Contracting Officer within 90 days of the end of the fiscal year in which the contract was performed. However, the period for submitting the report may be extended if there is just cause for such extension.

(3) In addition to the yearly reporting requirement given in paragraphs (a) and (b) of this section, the tribal contractor shall furnish other report when and as required by the Secretary.

Clause No. 28—Questionnaires and surveys.

In the event the performance of this contract involves the collection of information upon identical items from 10 or more persons, other than Federal employees, the Contractor shall obtain written approval from the Contracting Officer, prior to the use thereof, of any forms, schedules, questionnaires, survey plans or other documents, and any revisions thereto, intended to be used in such collection.

Clause No. 29—Printing.

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract: Provided, however, That performance of a requirement under this contract involving the reproduction of less than 5,000 production units of any one page, or less than 25,000 production units in the aggregate of multiple pages, will not be deemed to be printing. A production unit is defined as one sheet, size 8 by 10½ inches, one side only, one color.

Clause No. 30—Price reduction for defective cost or pricing.

The following clause applies to all contracts where cost and pricing data is required in accordance with Pub. L. 87-653.

Price Reduction for Defective Cost or Pricing Data

(a) If the Contracting Officer determines that any price negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because the Contractor, or any subcontractor pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments," or any subcontract clause therein required, furnished incomplete or inaccurate cost or pricing data or data not current as certified in his Contractor's Certificate or Current Cost or Pricing Data, then such price or cost shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

Clause No. 31—Subcontractor cost and pricing data.

The following clause should be included in all contracts, when the subcontracts of the type and size described therein are contemplated.

Subcontractor Cost and Pricing Data

(a) The Contractor shall require subcontractors hereunder to submit in writing cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursed type, time and material labor-hour, incentive, or price redeterminable subcontract the price of which is expected to exceed $100,000; and

(2) Prior to the award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification or which the price adjustment is expected to exceed $100,000, where the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, substantially the same form as that used in the certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (a) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each of his cost-reimbursement type, time and material, labor-hour, price redeterminable, or incentive subcontracts hereunder, and in any other subcontract hereunder which exceed $100,000 unless the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder which exceed $100,000, the Contractor shall insert the substance of the following clause:

Subcontractor Cost and Pricing Data-Price Adjustment

(a) Paragraph (b) and (c) of this clause shall become operative only with respect to any change or other modification made pursuant to one or more provisions of this contract which involves a price adjustment in excess of $100,000. The requirements of this clause shall be limited to such price adjustments.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursement type, time and material; labor-hour, incentive, or price redeterminable subcontract, the price of which is expected to exceed $100,000; and—

(2) Prior to award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000, there the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the Certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (b) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the contract modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000.

Clause No. 32—Advance payment.

(a) *Amount of Advance.* At the request of the contractor, and subject to the conditions hereinafter set forth, the Government shall make an advance payment, or advance payments from time to time, to the Contractor. No advance payment shall be made (1) without the approval of the officer administering advance payments (hereinafter called the "Administering Office" and designated in paragraph (k)(4) hereof) as with all advance payments theretofore made, shall exceed the amount stated in paragraph (k)(1) hereof; and (3) without a properly certified invoice or invoices.

(b) *Special Bank Account.* Until all advance payments made hereunder are liquidated and the Administering Office approves in writing the release of any funds due and payable to the Contractor, all advance payments and all other payments under the contract shall be made by check payable to the Contractor, and be marked for deposit only in a Special Bank Account with the bank designated in paragraph (k)(2) hereof. No part of the funds in the Special Bank Account shall be mingled with other funds of the Contractor prior to withdrawal thereof from the Special Bank Account as hereinafter provided. Except as hereinafter provided, each withdrawal shall be made only by check of the Contractor countersigned on behalf of the Government by the Contracting Officer or such other person or persons as he may designate in writing (hereinafter called the "Countersigning Agent"). Until otherwise determined by the Administering Office, countersignature on behalf of the Government will not be required.

(c) *Use of Funds.* The funds in the Special Bank Account may be withdrawn by the Contractor solely for the purposes of making payments for items of allowable cost or to reimburse the Contractor for such items of allowable cost, and for such other purposes as the Administering Office may approve in writing. Any interpretation required as to the proper use of funds shall be made in writing by the Administering Office.

(d) *Return of Funds.* The Contractor may at any time repay all or any part of the funds advanced hereunder. Whenever so requested in writing by the Administering Office, the Contractor shall repay to the Government such part of the unliquidated balance of advance of advance payments as shall in the opinion of the Administering Office be in excess of current requirements, or (when added to total advance previously made and liquidated) in excess of the amount specified in paragraph (k)(1) hereof. In the event the Contractor fails to repay such part of the unliquidated balance of advance payments when so requested by the Administering Office, all or any part thereof may be withdrawn from the Special Bank Account by checks payable to the Treasurer of the United States signed solely by the Countersigning Agent and applied in reduction of advance payments then outstanding hereunder.

(e) *Liquidation.* If not otherwise liquidated, the advance payments made hereunder shall be liquidated as herein provided. When the sum of all payments under this contract, other than advance payments, plus the unliquidated amount of advance payments are equal to the total estimated cost for the work under this contract or such lesser amount to which the total estimated cost under this contract may have been reduced, plus increases, if any, in this total estimated cost not exceeding, in the aggregate, (including, without limitation, reimbursable costs incident to termination for cause and retrocession as estimated by the Contracting Officer), the Government shall thereafter withhold further payments to the Contractor and apply the amounts withheld against the Contractor's obligation to repay such advance payments until such advance payments shall have been fully liquidated. If upon completion, termination, or retrocession of the contract all advance payments have not been fully liquidated, the balances therefore shall be deducted from any sums otherwise due or which may become due to the Contractor from the Government, and any deficiency shall be paid by the Contractor to the Government upon demand.

(f) *Bank Agreement.* Before an advance payment is made hereunder, the Contractor shall transmit to the Administering Office, in the form prescribed by such office, an Agreement in triplicate from the bank in which the Special Bank Account is established, clearly setting forth the special character of the account and the responsibilities of the bank thereunder. Wherever possible, such bank shall be a member bank of the Federal Reserve System, or an "insured" bank within the meaning of the Act creating the Federal Deposit Insurance Corporation Act of August 23, 1935, 49 Stat. 685, as amended (12 U.S.C. 264).

(g) *Lien on Special Bank Account.* The Government shall have a lien upon any balance in the Special Bank Account paramount to all other liens, which lien shall secure the repayment of any advance payments made hereunder.

(h) *Lien on Property under Contract.* Any and all advance payments made under this contract shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, upon the supplies or other things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other provision of this contract, or otherwise, shall have valid title to such supplies, materials, or other property as against other creditors of the Contractor. The Contractor shall identify, by marking or segregation, all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. If for any reason such supplies, materials, or other property are not identified by marking or segregation, the Government shall be deemed to have a lien to the extent of the Government's interest under this contract on any mass of property with which such supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over such property on his books and records. If at time during the progress of the work on the contract it becomes necessary to deliver any item or items

and materials upon which the Government has a lien as aforesaid to a third person, the Contractor shall notify such third person of the lien herein provided and shall obtain from such third person a receipt, in duplicate, acknowledging, inter alia the existence of such lien. A copy of each receipt shall be delivered by the Contractor to the Contracting Officer. If this contract is terminated in whole or in part and the Contractor is authorized to sell or retain termination inventory acquired for or allocated to this contract, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release of the Government's lien hereunder to the extent that such termination inventory is sold or retained, and to the extent that the proceeds of the sale, or the credit allowed for such retention on the Contractor's termination claim, is applied in reduction of advance payments then outstanding hereunder.

(i) *Insurance.* The Contractor represents and warrants that he is now maintaining with responsible insurance carriers, (1) insurance upon his own plant and equipment against fire and other hazards to the extent that like properties are usually insured by others operating plants and properties of similar character in the same general locality; (2) adequate insurance against liability on account of damage to persons or property; and (3) adequate insurance under all applicable workmen's compensation laws. The Contractor agrees that, until work under this contract has been completed and all advance payments made hereunder have been liquidated, he will (i) maintain such insurance; (ii) maintain adequate insurance upon any materials, parts, assemblies, subassemblies, supplies, equipment and other property acquired for or allocable to this contract and subject to the Government lien hereunder; and (iii) furnish such certificates with respect to his insurance as the Administering Office may from time to time require.

(j) *Prohibition against Assignment.* Notwithstanding any other provision of this contract, the Contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(k) *Designations and Determinations.* (1) *Amount.* The amount of advance payments at any time outstanding hereunder shall not exceed $———.

(2) *Depository.* The bank designated for the deposit of payments made hereunder shall be:

(3) *Interest Charge.* No interest shall be charged for advance payments made hereunder. The Contractor shall charge interest at the rate of 6 percent per annum on subadvances or down payments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on nonprofit subcontracts with nonprofit educational or research institutions for experimental, research or development work.

(4) *Administering Office.* The office administering advance payments shall be the office designated as having responsibility for awarding the contract.

(e) *Other Security.* The terms of this contract shall be considered adequate security for advance payments hereunder, except that if at any time the administering office deems the security furnished by the Contractor to be inadequate, the Contractor shall furnish such additional security as may be satisfactory to the administering office, to the extent that such additional security is available.

Clause No. 33—Effect on existing rights.

(a) Nothing in this contract shall be construed as—

(1) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity for suit enjoyed by an Indian tribe; or,

(2) Authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

Clause No. 34—Federal, State, and local taxes.

(a) Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties.

(b) Nevertheless, with respect to any Federal excise tax or duty on the transactions or property covered by this contract, if a statute, court decision, written ruling, or regulation takes effect after the contract date, and—

(1) Results in the Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof which would not otherwise have been payable on such transactions or property, the contract price shall be increased by the amount of such tax or duty or rate increase: Provided, That the Contractor if requested by the Contracting Officer, warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price as a contingency reserve or otherwise; or

(2) Results in the Contractor not being required to pay or bear the burden of, or in his obtaining a refund or drawback of, any such Federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the contract price, the contract price shall be decreased by the amount of the relief, refund, or drawback, or the amount shall be paid to Government, as directed by the Contracting Officer. The contract price shall be similarly decreased if the Contractor, through his fault or negligence or his failure to follow instructions of the Contracting Officer, is required to pay or bear the burden of, or does not obtain, a refund or drawback of, any such Federal excise tax or duty.

(c) No adjustment pursuant to paragraph (b) above will be made under this contract unless the aggregate amount thereof is or may reasonably be expected to be over $100.

(d) As used in paragraph (b) above, the term "contract date" means the date set for the bid opening, or if this is a negotiated contract, the date of this contract. As to additional supplies or services procured by modification to this contract, the term "contract date" means the date of such modification.

(e) Unless there does not exist any reasonable basis to sustain an exemption, the Government, upon request of the Contractor, without further liability, agrees, except as otherwise provided in this contract, to furnish evidence appropriate to establish exemption from any tax which the Contractor warrants in writing was excluded from the contract price. In addition, the Contracting Officer may furnish evidence to establish exemption from any tax that may, pursuant to this clause, give rise to either an increase or decrease in the contract price. Except as otherwise provided in this contract, evidence appropriate to establish exemption from duties will be furnished only at the direction of the Contraction Officer.

(f) The Contractor shall promptly notify the Contracting Officer of matters which will result in either an increase or decrease in the contract price, and shall take action with respect thereto as directed by the Contracting Officer.

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FRIDAY, NOVEMBER 14, 1975



PART III:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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INDIAN SELF-DETERMINATION ACT

Grants and Contracts for Development, Construction and Operation of Health Facilities and Service

Title 42—Public Health

CHAPTER I—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 36—INDIAN HEALTH

Subpart H—Grants for Development, Construction, and Operations of Facilities and Services

Subpart I—Contracts Under the Indian Self-Determination Act

On August 14, 1975, an advance notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 34292) advising of the intention of the Secretary of Health, Education, and Welfare to propose rules governing grants and contracts pursuant to sections 103 and 104 (b) of the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638. Public comments was invited. On September 15, 1975, the Secretary published in the FEDERAL REGISTER (40 FR 42658) a Notice of Proposed Rulemaking setting forth for public comment the rules and regulations which, when adopted, would govern grants and contracts pursuant to the Indian Self-Determination and Education Assistance Act.

Title I of the Pub. L. 93-638 directs the Secretary of Health, Education, and Welfare to enter into contracts with tribal organizations pursuant to section 103 of the Act to carry out any or all of the Secretary's functions, authorities, and responsibilities under the Act of August 5, 1954 (68 Stat. 674), 42 U.S.C. 2001, as amended, and authorizes the Secretary to make grants to Indian tribes or tribal organizations pursuant to section 104(b) of the Act for the development, construction, operation, provision or maintenance of facilities or services and for planning, training, and evaluation projects to improve the capacity of tribal organizations to contract. In the true spirit of self-determination, the Department of Health, Education, and Welfare through the Indian Health Service has taken extraordinary measures to seek and include the recommendations of the Indian people in the drafting of the regulations needed to implement this Act. Numerous meetings were held with the Bureau of Indian Affairs and the Civil Service Commission regarding similar obligations under the Act, recognizing the need for a set of regulations that would be as similar and as applicable as possible to both IHS and BIA. Strategy meetings were held in early January and February, resulting in a plan for conducting extensive field orientations and working consultations with the tribes. These were designed to solicit recommendations on a continuing basis at every stage of preparing the regulations for publication. An initial draft of implementation regulations was drawn up and sent to the tribes and field offices for review. During March and April, IHS and BIA sent teams to 15 strategic locations to discuss the draft regulations with Indian leaders and people and record their recommendations. Workshops and task forces were then set up to incorporate the input from the tribes into a working set of draft regulations and to develop issue or position papers outlining areas of potential conflict in order to avoid or diminish such conflict.

A second set of draft regulations was then sent out to the field and in late May and June the IHS and BIA teams again set forth to meet with the Indian people. To preserve continuity, the meetings were held, whenever possible, in the same place with the same teams making the presentations.

The resulting input received from the tribe and field offices was again reviewed and incorporated into a set of draft regulations which were submitted to the appropriate Congressional Committees on August 4. An Advance Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on August 14, to give the Indian people yet another opportunity to review the proposed regulations, and the Notice of Proposed Rulemaking was published on September 15. At all stages of development of the regulations particular effort was made to respond to the recommendations made by the Indian people. While there has been a significant amount of cooperation between the staff of the Indian Health Service and that of the Bureau of Indian Affairs, the regulations issued by the respective Department are not sufficiently similar. This has resulted from different draftsmen working within different organizations, each striving to produce an end-product in keeping with their respective standards. It is now realized that what is needed is uniformity wherever possible, that is, in every situation where programmatic differences do not require that distinctions be made. This need for uniform language and organization is of great importance because the Indian tribes seeking to benefit from the Act should not be burdened with the problem of reading different texts to derive basically the same information about closely related problems, nor should they have to trace cross-referenced material where this could be avoided. Accordingly, representatives of this Department will meet with representatives of the Bureau of Indian Affairs in an effort to achieve maximum uniformity in the regulations of the two agencies. Thus, even as these regulations are promulgated, it is anticipated that a major revision of these regulations is in order.

While the Department is committed to such an undertaking, the comments received from the public in response to the September 15, 1975, Notice of Proposed Rulemaking have been carefully considered in promulgating these regulations. Comments from over 25 different sources were received. In general, the comments suggested the need for greater similarity with the regulations of the Bureau of Indian Affairs, the need to eliminate unnecessary cross-referencing to other statutes or regulations, the need for more procedural safeguards for Indian people, and the need for assurance that the input of Indian people will be considered in the Secretary's decisions affecting Indian people.

In view of the commitment of the Secretary to working with the Indian people to achieve uniformity in the regulations of the Departments implementing Pub. L. 93-638, some changes in the regulations have been made to conform to the provisions in the BIA regulations. Some changes have been made to improve style, to clarify meaning and to reflect generally applicable Departmental policy. The changes in style, clarity, and organizational structure are apparent from the text and are not specifically discussed below. The cross references contained in the proposed regulations have not been deleted as it is anticipated that this is an issue which will be taken up with representatives of the tribes and BIA. Other specific comments are addressed below.

SUBPART H—GRANTS

1. It was suggested that the word "non-profit" be deleted from the definition of tribal organization because the statute did not contain such a limitation. We agree and have, accordingly, deleted the term from § 36.102(d). This change was made as the concept of a grant does not, by its nature, include a profit element. The fact that the grantee is a for-profit organization does not change the nature of a grant which does not include a profit element.

2. One commentator suggested that consultation with Indians be required prior to publishing a notice of availability of funds as required by § 36.109. This suggestion was not adopted because consultation is currently part of the normal budget process and because the allocation of funds reflects Congressional action in the appropriation process.

3. While § 36.114 makes applicable the uniform administrative requirements and cost principles of 45 CFR Part 74, a provision was added to § 36.114 to make clear that such requirements apply only to the extent that they are consistent with the regulations of this subpart.

4. The portion of § 36.115 which related to suspension of grants was deleted because the Department, upon further consideration, agreed with comments pointing out that suspension was not authorized by the statute. Section 36.115 (d) has been revised to clarify the appeal procedures and the rights of the grantee where a recision is based on an immediate threat to safety.

5. Two new §§ 36.120 and 36.121 entitled respectively Use of Indian business concerns and Indian preference in training and employment, have been added to subpart H to give effect to section 7(b) of the Act, 25 U.S.C. 450e(b).

SUBPART I—CONTRACTS

6. A number of comments noted that it did not appear from the text of the regulations that the Secretary was committed to fully implementing the Act notwithstanding the Secretary's statements in the preamble to the September 15, 1975, regulations. In order to dispel any doubt about the Secretary's commitment to carry out the intent of the Act, a new paragraph entitled Policy was added to section 36.201.

7. Section 202 was amended by the addition of new paragraphs which make clear that there is no obligation upon a tribe or tribal organization to apply for contracts under section 103 of the Act

and that the availability of other contracting authority is not limited to or precluded by the existence of contract authority under section 103.

8. Clarifying changes have been made to the definitions of Indian Tribe, Trust Resources, and Trust Responsibility in section 36.204. These changes have the added advantage of conforming to the definitions used by the Bureau of Indian Affairs.

9. In response to comments that it was unclear upon whom the burden of proof rested to establish that a Self-Determination contract proposal was deficient, a new sentence was added to paragraph (a) of § 36.208 stating that the burden of proof to show cause for declination lies with the HEW approving official. A clause was also added indicating that in evaluating the contractor's proposal, the IHS will take into account the prevailing health program and professional standards of IHS in the location concerned.

10. Section 36.211 has been restated to make clear that the Director of the Indian Health Service is authorized to approve applications for contracts under subpart I of the regulations. The Director was delegated such authority, with authority to redelegate to the Area and Program Directors with the approval of the Administrator, Health Services Administration, on September 15, 1975 (40 FR 42591). It is the intention of the Director and the Administrator to effect such delegations wherever practicable.

11. Section 36.212 is revised, as a result of comments that the procedure during review of a contract application was not lucid, by the addition of a provision for a meeting with representatives of the tribal governing body and the contract applicant to resolve any declination issues and by a provision clarifying the tribal organization's right to an informal or formal hearing on the declination.

12. The section on tribal appeals of declinations, § 36.214, has been extensively revised to carefully delineate the substantive and procedural rights of the tribal organizations. The new procedures permit the tribal organization to opt for an informal hearing or a formal hearing on the record.

13. A new paragraph (d) is added to § 36.216 to notify a tribal organization whose request for a waiver of federal contracting requirements has been denied of the reasons for the denial.

14. Sections 36.220 and 36.221 entitled respectively Use of Indian Business Concerns and Indian Preference in Training and Employment have been altered by the adoption of language which is consistent with section 7(b) of the Act, 25 U.S.C. 450e(b). The section on use of Indian business concerns has been modified to add a requirement that the contractor comply with the preference requirements regarding Indian business concerns established by the tribe consistent with this section. Section 221, Indian Preference in Training and Employment, is altered to require that the contractor give preference in training and employment to Indians regardless of age, religion, or sex and to provide that if the contractor or any of his subcontractors are unable to fill its employment openings with Indians, such openings may be filled with non-Indians subject to the conditions contained in the equal opportunity clause of the contract.

15. Section 36.224 was revised to indicate that the special provisions, procedures and requirements applicable to construction and architect-engineering service contracts are set forth in 41 CFR 3-4.6008. That section not only covers applicability the Davis-Bacon Act of March 3, 1931, but also the other requirements unique to construction contracts.

16. A number of comments pointed out that § 36.233, Assumption and Reassumption of Contract Programs, did not adequately protect the rights of the contractor and was inconsistent with section 109 of the Act as suspension is not authorized. The portion of § 36.233 as published on September 15, 1975, which related to suspension of contracts, was deleted because the Department, upon further consideration, agreed that suspension was not authorized by the statute. To clarify the substantive and procedural rights of the contractor where assumption or reassumption of the contract is contemplated by the government, paragraphs c, d, and e were rewritten. As revised, § 36.233 provides that all hearings will be on the record, will be held before the Contract Appeals Board, and provides that where there is an immediate threat to safety, the Board must, within 25 days, notify the parties in writing of its decision which will be considered final. Where the hearing takes place prior to assumption or reassumption, the Board makes a recommended decision which may be modified or revised by the Director of the Indian Health Service.

These regulations implement the Act, the wishes of the Indian people, and the intent of Congress. Accordingly, pursuant to the authority of section 107 of the Indian Self-Determination Act, 25 U.S.C. 450k, and sections 3 of Pub. L. 83-568, 42 U.S.C. 2003, Part 36 of Title 42 of the Code of Federal Regulations is amended by the adoption of the following new subparts H and I.

Effective date. This regulation shall become effective on November 14, 1975.

Approved: November 7, 1975.

DAVID MATHEWS,
Secretary.

Subpart H—Grants for Development, Construction, and Operations of Facilities and Services

Sec.
36.101 Applicability.
36.102 Definitions.
36.103 Eligibility.
36.104 Application.
36.105 Project elements.
36.106 Grant award and evaluation.
36.107 Use of project funds.
36.108 Funding duration.
36.109 Availability of appropriations.
36.110 Facilities construction.
36.111 Interest.
36.112 Additional conditions.
36.113 Fair and uniform provision of services.
36.114 Applicability of 45 CFR Part 74.
36.115 Recission of the Grants.
36.116 Reports.
36.117 Amendment of Regulations.
36.118 Effect of Existing Rights.
36.119 Penalties.
36.120 Use of Indian business concerns.
36.121 Indian preference in training and employment.
APPENDIX: Minimum standards of construction and equipment.

Subpart H—Grants for Development, Construction, and Operations of Facilities and Services

AUTHORITY: Secs. 104, 107, 25 U.S.C. 450h (b), 450k; Sec. 3, Pub. L. 83-568, 42 USC 2003.

§ 36.101 Applicability.

The regulations of this subpart are applicable to grants awarded pursuant to section 104(b) of Pub. L. 93-638, 25 U.S.C. 450h(b) for (a) projects for development including feasibility studies, construction, operation, provision, or maintenance of services and facilities provided to Indians and, (b) for projects for planning, training, evaluation or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 103 of the Act. Such grants may include the cost of training personnel to perform grant related activities.

§ 36.102 Definitions.

As used in this Subpart:

(a) "Act" means Title I of the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638 (88 Stat. 2203).

(b) "Indian" means a person who is a member of an Indian tribe.

(c) "Indian tribe" means any Indian tribe, band, nation, rancheria, Pueblo, colony or community, including any Alaska Native Village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203 (85 Stat. 688) which is recognized as eligible by the United States Government for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) "Tribal organization" means:

(1) The recognized governing body of any Indian tribe; or

(2) Any legally established organization of Indians which is:

(i) Controlled, sanctioned or chartered by such governing body or bodies; or

(ii) Democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

(e) "Secretary" means the Secretary of the Department of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(f) "Grantee" means the tribe or tribal organization that receives a grant under section 104(b) of the Act and this sub-

part and assumes the legal and financial responsibility for the funds awarded and for the performance of the grant supported activity in accordance with the Act and these regulations.

(g) "Indian owned economic enterprise" means any commercial, industrial, or business activity established or organized for the purpose of profit which is not less than 51 percent Indian owned.

§ 36.103 Eligibility.

Any Indian tribe or tribal organization is eligible to apply for a grant under this subpart.

§ 36.104 Application.

(a) An application for a grant under this subpart shall be submitted to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) The application shall be executed by an individual or individuals authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the Act, the regulations of this subpart and the terms and conditions of any grant award.

(c) In addition to such other pertinent information as the Secretary may require, the application for a grant under this subpart shall contain the following:

(1) A description of the applicant including an indication whether the applicant is a Tribe or tribal organization, and if the latter:

(i) The legal and organizational relationship of the applicant to the Indians in the Area to be served or effected by the project.

(ii) A description of the current and proposed participation of Indians in the activities of applicant.

(iii) Whether applicant is controlled, sanctioned or chartered by the governing body of the Indians to be served, and if so, evidence of such fact.

(iv) If elected, a description of the election process, voting criteria, and extent of voter participation in the election designating the organization.

(2) A narrative description of the project including its goals and objectives and the manner in which the proposed project is compatible with published Indian Health Service statements of availability of funds, the manner in which those goals and objectives are to be attained, and a work and time schedule which will be utilized to accomplish each goal and objective.

(3) A description of applicant's staff, present or proposed, including their qualifications, academic training, responsibilities and functions.

(4) A description of the manner in which the staff is or will be organized and supervised to carry out proposed activities.

(5) A description of training to be provided as part of the proposed project.

(6) A description of the administrative, managerial, and organizational arrangements and resources to be utilized to conduct the proposed project.

(7) A budget for the entire period of the project for which support is sought.

(8) The intended financial participation, if any, of the applicant, specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space materials or facilities, or other contributions.

(9) Where health services are to be provided, a description of the nature of the services to be provided and the population to be served.

(10) A description of the Federal property, real and personal, equipment, facilities and personnel which applicant proposes to utilize and a description of the arrangements which applicant has made or will make to assume responsibility for the operation and management of those facilities.

(d) The application shall contain assurances satisfactory to the Secretary that the applicant will:

(1) Obtain adequate liability insurance coverage or an explanation of why such insurance cannot or should not be obtained. Such insurance shall provide that prior to cancellation the Secretary must be notified and must further provide that each such policy of insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

(2) Where applicant is providing services, provide such services at a level and range which is not less than that provided by the Indian Health Service or that identified by the Service after negotiation with the applicant as an appropriate level, range and standard of care.

(3) Where providing services, provide services in accordance with law and applicable Indian Health Service policies and regulations.

(4) Where providing services, provide services in a fair and uniform manner, consistent with medical need, to all Indian people.

§ 36.105 Project elements.

A project supported under this subpart must:

(a) Have sufficient, adequately trained staff in relation to the scope of the project.

(b) Maintain a mechanism for dealing with complaints regarding the delivery of health services or performance of project activities.

(c) Hold confidential all information obtained by the personnel of the project from participants in the project related to their examination, care, and treatment, and shall not release such information without the individuals' consent except as may be required by law, as may be necessary to provide service to the individual, or as may be necessary to monitor the operations of this program or otherwise protect the public health. Information may be disclosed in a form which does not identify particular individuals.

(d) Utilize appropriate bookkeeping and accounting procedures and mechanisms to assure accountability for grant funds and resources.

(e) Operate with the approval, support, and involvement of the tribe, tribes, or Indian communities in the area served by the local facility and program.

(f) Provide Indians, to the extent feasible, opportunities for training and employment in connection with the administration of the project and also provide preference to Indians and Indian owned economic enterprises in the award of subcontracts in connection with the administration of the project.

(g) Keep in force adequate liability insurance in accordance with the approved application unless the Secretary, for good cause shown, determined that such insurance was not obtainable or appropriate or has determined that such insurance may be permitted to expire or lapse.

(h) Perform the project in accordance with the provisions of the Act and the regulations of this part.

(i) Provide services at a level and range which is not less than that provided by the Indian Health Service or that identified by the Service as an appropriate level, range, and standard of care.

§ 36.106 Grant award and evaluation.

(a) Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to applicants whose project will, in the judgment of the Secretary, best promote the purposes of the Act, and the regulations of this subpart, taking into account:

(1) The apparent capability of the applicant to organize and manage the proposed project successfully considering, among other things the adequacy of staff, management systems, equipment and facilities.

(2) The soundness of the applicant's plan for conducting the project and for assuring effective utilization of grant funds.

(3) The adequacy of the budget in relation to the scope of the project and available funds.

(4) The relative effectiveness of the applicant's plan, as set forth in the application, to carry out each of the requirements § 36.105.

(5) The compatibility of the proposed project with the published goals and responsibilities of the IHS in carrying out its statutory mission.

(b) All grant awards shall be in writing, shall set forth the amount of funds granted, and the period for which support is provided.

(c) Neither the approval of any project nor any grant award shall commit the United States in any way to make additional, supplemental, continuation or other awards with respect to any approved project or portion thereof.

§ 36.107 Use of Project Funds.

(a) Any funds granted pursuant to this subpart shall be expended solely for carrying out the approved project in ac-

cordance with section 104(b) of the Act, the regulations of this subpart, and the terms and conditions of award.

(b) The provisions of any other Act notwithstanding, any funds made available to a tribal organization under grants pursuant to section 104(b) of the Act may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made.

§ 36.108 Funding duration.

The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for project costs and the availability of funds.

§36.109 Availability of appropriations.

The Secretary will from time to time publish a notice in the FEDERAL REGISTER indicating by areas the allotment of funds and categories of activities for which awards may be made under this Subpart. The Secretary may revise such allotments and categories from time to time and will promptly publish a notice of such revisions in the FEDERAL REGISTER.

§ 36.110 Facilities construction.

In addition to other requirements of this subpart:

(a) An applicant for a construction grant to build, renovate, modernize, or remodel a hospital, clinic, health station or quarters for housing personnel associated with such facilities, must in its application:

(1) Provide its assessment of the environmental impact of the project as called for by section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)).

(2) Furnish its evaluation of the project site in accordance with the terms and conditions of E.O. 11296, 31 FR 10663 (August 10, 1966) relating to the evaluation of flood hazards in locating federally owned or financed facilities.

(b) Each applicant for construction grant to build, renovate, modernize, or remodel a hospital, clinic, health station or quarters for housing personnel associated with such facilities, in addition to any other requirements imposed by the Act or determined by the Secretary to be reasonably necessary with respect to particular projects to fulfill the purpose of the grant, shall be subject to the condition that the applicant shall furnish and comply with the following assurances:

(1) *Title.* That applicant has a fee simple or such other estate or interest in the site for construction, including necessary easements and rights-of-way, sufficient to assure for a period of not less than the estimated useful life of the facility undisturbed use and possession for the purpose of the construction and operation of the facility: *Provided, however,* That where the construction is to take place on land owned by the United States, applicant need not comply with this provision.

(2) *Competitive bids.* (i) That the approval of the Secretary shall be obtained before the project is advertised or placed on the market for bidding and that such approval shall include a determination by the Secretary that the final plans and specifications conform to the minimum standards of construction and equipment as set forth in Appendix A of this subpart.

(ii) That all contracting for construction (including the purchase and installation of built-in equipment) shall, except as provided in paragraph (b)(2)(iii) of this section or as provided in the regulations of this subpart or the Act be on a lump sum fixed-price basis, and contract will be awarded on the basis of competitive bidding obtained by public advertising with award of the contract to the lowest responsive and responsible bidder. The giving of preference to local contractors or suppliers over non-local contractors or suppliers, except as otherwise provided in these regulations is not authorized.

(iii) A substitute bidding procedure of selective solicitation with response from three or more bidders may be used if:

(A) The applicant requests and justifies the use of the procedure;

(B) The procedure is not inconsistent with applicable State or local laws; and

(C) The Secretary determines that it is necessary to limit bidding to contractors of proven competence due to the complexity or specialty of the project or that the time element is of primary consideration. When this bidding procedure is used the applicant shall establish reasonable bid prequalification standards for contractors. The applicant shall then accept and consider bids from any contractor who requests permission to bid and who is determined by applicant to meet these prequalification standards. Adequate time shall be allowed for contractors to prepare bids, and award of construction contracts shall be made to the lowest qualified and responsible bidder whose bid is considered fully responsive to the bid invitation.

(3) *Approval of estimated cost.* That the applicant will enter into no construction contract or contracts with respect to the project or any portion thereof where the cost exceeds the estimates in the application for such work, without prior approval of the Secretary.

(4) *Relocation assistance.* That in the case of an applicant with an approved project which involves the displacement of persons or businesses whose real property has or will be taken, the applicant will comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 and applicable regulations issued thereunder. (45 CFR Part 15).

(5) *Completion responsibility.* The applicant will construct the project, or cause it to be constructed, to final completion in accordance with the grant application and the plans and specifications.

(6) *Progress reports.* That applicant shall furnish progress reports and such other information as the Secretary may require.

(7) *Construction supervision.* That applicant shall provide and maintain competent and adequate architectural and engineering supervision and inspection at the construction site to insure that the completed work conform to the plans and specifications.

(8) *Authorized uses.* That the facility is intended and will be used only for the purposes for which the application has been made.

(9) *Wage rate standards.* That all laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating of building or other facilities in connection with contracts or grants entered into pursuant to the Act, shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 3, 1931, as amended.

(10) *Accessibility by handicapped.* That the applicant shall require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A 117.1—1961 as modified by other standards prescribed by the Secretary.

(11) *Minimum standards of construction and equipment.* That the plans and specifications for the project will conform to the minimum standards of construction and equipment as set forth in Appendix A of this subpart.

(12) *Construction contract requirements.* That the following conditions and provisions must be included in all construction contracts let by grantee:

(i) The provisions set forth in "DHEW Requirements for Federally Assisted Construction Contracts Regarding Labor Standards and Equal Employment Opportunities," Form DHEW 514 (latest edition) (issued by the Office of Grants Administration Policy, United States Department of Health, Education, and Welfare) pertaining to the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Act (Anti-Kickback) Regulations, except in the case of contracts in the amount of $2,000 or less; and pertaining to Executive Order 11246, 30 FR 12319 (September 24, 1965), as amended, relating to nondiscrimination in construction contract employment, except in the case of contracts in the amount of $10,000 or less: *Provided, however,* That nothing required herein shall be in contravention of the requirements of section 7 of Pub. L. 93-638, 25 U.S.C. 450e.

(ii) The contractor shall furnish performance and payment bonds, each of which shall be in the full amount of the contract price, and shall maintain, during the life of the contract, adequate fire, workmen's compensation, public liability, and property damage insurance: *Provided, however,* That in the case of an Indian tribe or tribal organization entering into a construction contract of less than $100,000, State or local provisions with respect to performance and payment bonds shall be deemed to meet the requirements of this paragraph.

(iii) The Secretary shall have access at all reasonable times to work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

§ 36.111 Interest.

Tribes and Tribal organizations shall not be held accountable for interest earned on grant funds, pending disbursement by such organization.

§ 36.112 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of public health, or the conservation of grant funds.

§ 36.113 Fair and uniform provision of services.

Services provided pursuant to a grant under this subpart shall be provided by the Grantee in a fair and uniform manner to all participants in the project consistent with their medical need, the policies and regulations of the Indian Health Service, and the Act.

§ 36.114 Applicability of 45 CFR Part 74.

The following provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles shall apply to all awards under this subpart to the extent they are consistent with this subpart:

(a) Subpart A "General", except that for purposes of this subpart the definition of "local government" in § 74.3 shall also include Indian tribes and tribal organizations.

(b) Subpart B, "Cash Depositories".

(c) Subpart C, "Bonding and Insurance" except as otherwise specifically provided in this subpart.

(d) Subpart D, "Retention and Custodial Requirements for Records".

(e) Subpart F, "Grant-Related Income", except for § 74.42.

(f) Subpart H, "Standards for Grantee and Subgrantee Financial Management Systems".

(g) Subpart I, "Financial Reporting Requirements".

(h) Subpart J, "Monitoring and Reporting of Program Performance".

(i) Subpart K, "Grant Payment Requirements", except that the references in § 74.94 to § 74.113 shall be deemed to be references to § 36.115 of this subpart.

(j) Subpart L, "Budget Revision Procedures".

(k) Sections 74.110 and 74.111 of Subpart M, "Grant Closeout, Suspension, and Termination".

(l) Subpart N, "Forms for Applying for Grants".

(m) Subpart O, "Property".

(n) Subpart P, "Procurement Standards" provided, however, that to the greatest extent feasible preferences and opportunities for training and employment in connection with the administration of grants and contracts pursuant to this Act shall be awarded to Indians and preference in the award of subcontracts and subgrants in connection with the administration of grants and contracts pursuant to this Act shall be given to Indian Organizations and Indian-owned economic enterprises.

(o) Sections 74.140 and 74.171 of Subpart Q, "Cost Principles," and Appendix C to such subpart, except for Paragraph J (4) of Part I of such Appendix.

§ 36.115 Recission of grants. Grants.

(a) When the Secretary determines that the performance of a grantee under these regulations involves (1) the violation of the rights or endangerment of the health, safety, or welfare of any persons, or (2) gross negligence or the mismanagement in the handling or use of funds under the grant, the Secretary will, in writing, notify the grantee of such determination and will request that the grantee take such corrective action, within such period of time, as the Secretary may prescribe.

(b) When the Secretary determines that a grantee has not taken corrective action (as prescribed by him under paragraph (a) of this section) to his satisfaction, he may, after providing the grantee an opportunity for a hearing in accordance with paragraph (c) of this section, rescind the grant in whole or in part and if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved.

(c) When the Secretary has made a determination described in paragraph (b) of this section, he shall in writing notify the grantee of such determination and of the grantee's right to request a review of such determination (and of the determination described in paragraph (a) of this section) under the Public Health Service Grant Appeals Procedure (42 CFR Part 50, Subpart D). Such notification by the Secretary shall set forth the reasons for the determination in sufficient detail to enable the grantee to respond and shall inform the grantee of its opportunity for review under such Subpart D. If the review held under Subpart D results in a response adverse to the grantee's position, the grantee shall be informed of its right to have a hearing before the Department Grant Appeals Board, pursuant to 45 CFR Part 16.

(d) Where the Secretary determines that a grantee's performance under a grant awarded under this subpart poses an immediate threat to the safety of any person, he may immediately rescind the grant in whole or in part and if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved. Upon such recission he will immediately notify the grantee of such action and the basis or reasons therefor; and offer the grantee an opportunity for a hearing to be held within 10 days of such action. If the grantee requests such a hearing, the Secretary will designate three officers or employees of the Department to serve as a hearing panel. No officer or employee from the immediate office of the official who made the decision to rescind the grant under this paragraph may be designated to serve on the hearing panel.

(1) The hearing shall be commenced within 10 days after the recission of the grant, shall be held on the record and shall afford the grantee the right:

(i) to notice of the issues to be considered;

(ii) to be represented by counsel;

(iii) to present witnesses on grantee's behalf; and

(iv) to cross-examine other witnesses either orally or through written interrogatories.

(2) The hearing panel shall, within 25 days after the conclusion of the hearing, notify all parties in writing of its decision.

(3) Such decision shall not be subject to further hearing under 42 CFR Part 50, subpart D or 45 CFR Part 16.

(e) In any case where the Secretary has rescinded a grant under paragraphs (b) or (d) of this section, he may decline to enter into a new grant agreement with the grantee until such time as he is satisfied that the basis for the recission has been corrected. Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

(f) In any case where the Secretary has rescinded a grant for the delivery of health services under this subpart, the grantee shall, upon the request of the Secretary, transfer to the Secretary all medical records compiled in the operation of the supported project.

§ 36.116 Reports.

In addition to the reporting and information requirements provided in Subpart J of 45 CFR Part 74 made applicable to grants under this subpart by § 36.114, each recipient of Federal financial assistance shall make such reports and information available to the Indian people served or represented by such recipient as and in a manner determined by the Secretary to be adequate.

§ 36.117 Amendment of regulations.

Before revising or amending the regulations in this subpart, the Secretary shall take the following actions:

(a) Consult with Indian Tribes and national and regional Indian organizations to the extent practicable about the need for revision or amendment and consider their views in preparing the proposed revision or amendment.

(b) Present the proposed revision or amendment to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.

(c) Publish the proposed revisions or amendments in the FEDERAL REGISTER as proposed rulemaking to provide adequate notice to receive comments from, all interested parties.

(d) After consideration of all comments received, publish the regulations in the FEDERAL REGISTER in final form not less than 30 days before the date they are made effective.

§ 36.118 Effect on existing rights.

The regulations in this Part are not meant to and do not:

(a) Affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by an Indian tribe;

(b) Authorize, require or permit the termination of any existing trust responsibility of the United States with respect to the Indian people;

(c) Permit significant reduction in services to Indian people as a result of this subpart.

§ 36.119 Penalties.

Section 6 of Pub. L. 93-638, 25 USC 450(d) provides:

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of a contract, subcontract, grant, or subgrant pursuant to this Act or the Act of April 16, 1934 (48 Stat. 596), as amended, embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of such a grant, subgrant, contract, or subcontract, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 36.120 Use of Indian business concerns.

Grants awarded pursuant to this subpart will incorporate the following:

Use of Indian business concerns.

(a) As used in this clause, the term "Indian organizations of an Indian-owned economic enterprise" as defined in section 102(g) of this subpart.

(b) The grantee agrees to give preference to qualified Indian business concerns in the awarding of any contracts or subgrants entered into under the grant consistent with the efficient performance of the grant. The grantee shall comply with any preference requirements regarding Indian business concerns established by the tribe(s) receiving services under the grant to the extent that such requirements are consistent with the purpose and intent of this paragraph.

§ 36.121 Indian preference in training and employment.

(a) Any grant made under this subpart, or a contract or subgrant made under such a grant shall require that, to the greatest extent feasible preferences and opportunities for training and employment in connection with the administration of such grant, or contract or subgrant made under such grant, shall be given to Indians.

(b) The grantee shall include the requirements of paragraph (a) of this section in all contracts and subgrants made under a grant awarded under this subpart.

APPENDIX A—MINIMUM STANDARDS OF CONSTRUCTION AND EQUIPMENT

The minimum standards of construction and equipment set forth below have been established by the Secretary pursuant to section 107 of the Act (25 U.S.C. 450k). In accordance with 5 U.S.C. 542(a)(1), the publications to which reference is made in this Appendix A, unless otherwise indicated, are hereby incorporated by reference and made a part hereof. These documents are available for inspection at the Department's and Regional Offices' Information Centers listed in 45 CFR 5.31 and copies of such documents may be purchased as specified. These standards are applicable to all projects approved for construction grants under section 104(b)(1) of the Act; in addition, hospitals and outpatient facilities must comply with the requirements of "General Standards of Construction and equipment for Hospital and Medical Facilities" (DHEW Publication No. 74-4000) which document is incorporated by reference in § 53.101(a) of this chapter. Said document will be provided to all applicants with a need therefor, and is available to any interested person whether or not affected by the provisions of this subpart, upon request to the Regional Office of the Department of Health, Education, and Welfare or the Public Inquiries Branch, Public Health Service, Washington, D.C.

(a) *General.* The structural design, construction, and fire safety provisions of all project facilities shall comply with the standards of the National Building Code, 1967 (available from American Insurance Association Engineering and Safety Department, 85 John Street, New York, NY 10037, or 120 South La Salle Street, Chicago, IL 60603, or 465 California Street, San Francisco, CA 94104) or with applicable State, local codes and ordinances, whichever is more restrictive.

(b) *Mechanical.* All installations of fuel burning equipment, steam, heating, air conditioning and ventilation, plumbing and other piping systems and boilers shall comply with the following standards:

(1) *Handbook of Fundamentals:* American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) 1972; United Engineer Center, 345 East 47th Street, New York, NY 10017.

(2) National Standard Plumbing Code 1955; American Society of Mechanical Engineers (ASME); United Engineer Center, 345 East 47th Street, New York, NY 10017.

(3) Boiler and Pressure Vessel Code, 1971 edition, with current addenda, section 8, Division I, American Society of Mechanical Engineers (ASME); United Engineer Center, 345 East 47th Street, New York, NY 10017.

(c) *Fire and safety.* The fire-resistant design criteria for the facility will be governed by the criteria necessary for that portion of the facility which is subject to the most severe usage. Remodeled structure shall be upgraded, in total, unless it is feasible to isolate the improved portion of the building with fire walls and fire doors. Fire-resistant design shall be in accordance with the standards of Fire Safety Code Number 101, 1970, National Fire Protection Association, International, 60 Batterymarch Street, Boston, MA 02110.

(d) *Emergency electrical service.* Fire alarm systems and other electrical service shall conform to the standards as specified in Life Safety Code Number 101, 1970, National Fire Protection Association, International, 60 Batterymarch Street, Boston, MA 02110.

(e) *Electrical.* All electrical installations and equipment shall be in accordance with State and local codes and applicable sections of National Electric Code, NFPA Bulletin No. 70 HC, 1971, National Fire Protection Association, International, 60 Batterymarch Street, Boston, MA 02110.

(f) *Radiation protection.* All areas in which X-ray, gamma-ray, beta-ray producting and similar equipment is located shall be protected from radiation in accordance with the standards which are in the handbook reports No. 33, 1968; 34, 1970; 35, 1970, and 36, 1970, of the National Council on Radiation Protection and Measurement, Box 4867, Washington, DC 20008.

(g) All facilities shall be designed and constructed in accordance with the standard specified in the Uniform Building Code, 1970, International Conference of Building Officials, 50 South Los Robles, Pasadena, CA 91101, unless more restrictive State and local codes govern.

(h) *Zoning.* Applicable State and local codes shall apply.

Subpart I—Contracts Under the Indian Self-Determination Act

GENERAL

Sec.
36.201 Policy and Applicability.
36.202 Effect on existing rights.
36.203 Amendment of regulations.
36.204 Definitions.

CONTRACT PROPOSALS, REVIEW, AND APPEAL

36.205 Eligibility and Application.
36.206 Tribal clearances—initial contracts.
36.207 Tribal clearances—renewal contracts.
36.208 Evaluation criteria.
36.209 Government property.
36.210 Submitting contract proposals.
36.211 Contract proposal approval officials.
36.212 Review.
36.213 Processing time.
36.214 Tribal appeals to proposal declinations.

PROCUREMENT

36.215 Applicability of Regulations.
36.216 Waivers.
36.217 Fair and equal treatment of Indian people.
36.218 Types of contracts.
36.219 Term of contract.
36.220 Use of Indian business concerns.
36.221 Indian preference in training and employment.
36.222 Indemnity and Insurance.
36.223 Exemption from bonds.
36.224 Construction and architect-engineering contracts.
36.225 Performance of personal services.
36.226 Advance payments.
36.227 Record keeping, reporting and audit.
36.228 Availability of Information.
36.229 Penalties.
26.230 Contract revisions or amendments.
36.231 Retrocession of contract programs.
36.232 Contractor assistance.
36.233 Assumption and reassumption of contract programs.
36.234 Operation of retroceded or reassumed contracts.
36.235 Contract funds.
36.236 Unexpended funds under contract.
36.237 Contract funding and renegotiation.

Subpart I—Contracts Under the Indian Self-Determination Act

AUTHORITY: Secs. 103, 107, 25 U.S.C. 450g, 450k; sec. 3, Pub. L. 83-568, 42 U.S.C. 2003.

§ 36.201 Policy and applicability.

(a) Policy. (1) The Congress has recognized the obligation of the United States to respond to the strong expres-

sion of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

(2) The Congress has declared its commitment to the maintenance of the Federal Government's unique and continuing relationship with the responsibilities to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.

(3) It is the policy of the Secretary of the Department of Health, Education, and Welfare to facilitate the efforts of Indian tribes to plan, conduct, and administer programs, or portions thereof, which the Indian Health Service is authorized to administer for the benefit of Indians.

(4) It is the policy of the Secretary to continually encourage Indian tribes to become increasingly knowledgeable about Indian Health Service programs and the opportunities Indian tribes have regarding them; however, it is the policy of the Indian Health Service to leave to Indian tribes the initiative in making requests for contracts and to regard self-determination as including the decision of an Indian tribe not to request contracts.

(5) It is the policy of the Indian Health Service not to impose sanctions on Indian tribes with regard to contracting or not contracting; however, the special resources made available to facilitate the efforts of those Indian tribes which do wish to contract should be made known to all tribes, as should the current realities of funding and Federal personnel limitations.

(6) Contracting is one of several mechanisms by which Indian tribes can exercise their right to plan, conduct, and administer programs or portions thereof which the Secretary is authorized to administer for the benefit of Indians. Another mechanism afforded Indian tribes is the use of a grant, as provided in Subpart H of this Part, or other resources, to plan the manner in which it wishes the Indian Health Service to operate a program or portion thereof.

(7) The regulations in this subpart are not meant to and do not change the eligibility criteria which individuals must meet to be eligible for any program currently operated by the Indian Health Service.

(b) The regulations of this subpart are applicable to contracts awarded pursuant to section 103 of P.L. 93-638, 25 USC 450g to carry out any or all of the functions, authorities, and responsibilities of the Secretary of Health, Education, and Welfare under the Act of August 5, 1954 (68 Stat. 674), as amended, 42 USC 2001 et seq.

§ 36.202 Effect on existing rights.

The regulations in this subpart are not meant to and do not:

(a) Affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by an Indian tribe;

(b) Authorize, require or permit the termination of any existing trust responsibility of the United States with respect to the Indian people;

(c) Permit significant reduction in services to Indian people as a result of this subpart.

(d) Nothing in these regulations shall be construed to require a tribe to apply for a contract or contracts with the Secretary to carry out under the Indian Self-Determination Act any of the Secretary's functions, authorities and responsibilities under the Act of August 5, 1954, as amended, 42 U.S.C. 2001, et seq. Such applications under these regulations are voluntary.

(e) Nothing in these regulations shall be construed to preclude the making of contracts under any other authority of law nor to restrict contracts with Indian tribes or tribal organizations to contracts entered into under esction 103 of the Act.

§ 36.203 Amendment of regulations.

Before revising or amending the regulations in this subpart, the Secretary will take the following actions:

(a) Consult with Indian tribes and national and regional Indian organizations to the extent practicable about the need for revision or amendment and consider their views in preparing the proposed revision or amendment.

(b) Present the proposed revision or amendment to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.

(c) Publish the proposed revisions or amendments in the FEDERAL REGISTER as proposed rulemaking to provide adequate notice to receive comments from all interested parties.

(d) After consideration of all comments received, publish the regulations in the FEDERAL REGISTER in final form not less than 60 days before the date they are made effective.

§ 36.204 Definitions.

(a) "Act" means Title I of the Indian Self-Determination and Education Assistance Act, Public Law 93-638 (25 USC 450f et seq.).

(b) "Secretary" means the Secretary, of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "Director" means the Director, Indian Health Service, Health Services Administration, Public Health Service, Department of Health, Education, and Welfare (IHS) who is the official to whom the Secretary has delegated full responsibility and authority to implement and administer those aspects of the Act related to the health and well-being of the Indian people.

(d) "Area Director" means the official in charge of an Indian Health Service Area, or Program Office.

(e) "Contracting Officer" means the person executing the contract on behalf of the Government and any other officer or employee who is properly designated Contracting Officer; and the term includes, except as otherwise provided in the contract, the authorized representative of the Contracting Officer acting within the limits of his authority.

(f) "Indian" means a person who is a member of an Indian tribe.

(g) "Indian Tribe" means any Indian tribe, band, nation, rancheria, Pueblo, colony or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible by the United States Government for the special programs and services provided by the United States to Indians because of their status as Indians.

(h) "Tribal organization" means:

(1) The recognized governing body of any Indian tribe; or

(2) Any legally established organization of Indians which is:

(i) Controlled, sanctioned or chartered by such governing body or bodies; or

(ii) Democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

(i) "An Indian Owned Economic Enterprise" means any commercial industrial, or business activity established or organized for the purpose of profit which is not less than 51 percent Indian owned.

(j) An "Indian Self-Determination Contract Proposal" is the name of the document to be utilized by Indian Tribal organizations to forward to the Indian Health Service, their requests to enter into contracts for health programs or services.

(k) "Trust Resources" means natural resources, land, water, minerals, funds, or property, asset, or claim, including any intangible right or interest in any of the foregoing, which is held by the United States in trust for any Indian tribe or any Indian individual or which is held by any Indian tribe or Indian individual subject to a restriction on alienation imposed by the United States.

(l) "Trust Responsibility" means the responsibility assumed by the Government, by virtue of treaties, statutes and other means, legally associated with the role of trustee, to recognize, protect and preserve tribal sovereignty and to protect, manage, develop and approve authorized transfers of interests in trust resources held by Indian tribes and Indian individuals to a standard of the highest degree of fiduciary responsibility.

(m) "Retrocession" is the voluntary return of a contracted program, or portion thereof, to the Indian Health Service pursuant to section 106(d) of the Act.

(n) The Contract Proposal Declination Appeals Board (CPDAB) is a body established to review Indian Self-Deter-

mination Contract Proposals which have been disapproved.

CONTRACT PROPOSALS, REVIEW, AND APPEAL

§ 36.205 Eligibility and application.

(a) Any tribal organization upon the request of the Indian tribe to be served, is eligible to apply for a contract with the Secretary to carry out any or all of the functions, authorities and responsibilities of the Secretary under the Act of August 5, 1954.

(b) All such contracts shall be based upon Indian Self-Determination Contract proposals which will be specific and, as a minimum, include the following:

(1) Date Submitted.

(2) Full name and address of the Indian tribal organization submitting the proposal.

(3) Full name and tribe(s) which the tribal organization is affiliated with.

(4) Narrative description of the functions, IHS programs, or portions thereof which the tribal organization wants to contract for.

(5) Type of contract proposed (cost reimbursement, fixed price, etc.).

(6) Proposed contract starting and completion dates.

(7) Equipment and facilities needed to carry out the contract and how the tribal organization intends to obtain such.

(8) Narrative indicating the tribal organization's knowledge of the program or function or portion thereof to be contracted for and the relation of such to the mission of the Indian Health Service. Where tribal organizations have already been involved in a contract for such programs, this narrative may be in the form of an updated version of the scope of work under that contract. In any case, the following items should be described in the narrative:

(i) Experience and training of personnel performing under the contract;

(ii) Familiarity with Federal Regulations and procedures involved;

(iii) Experience in operating a similar or related tribal program;

(iv) Extent of subcontracting contemplated and, where such information is available, identification of proposed subcontractors;

(v) Identification of Federal employee transfers contemplated;

(vi) Personnel system and key personnel;

(vii) The work plan for carrying out the contract including the timetable for delivery of optimum services.

(9) Evidence of community support for or lack of opposition to the contract.

(10) Information concerning training to be given to personnel who will perform under the contract.

(11) Estimate of the number of Indians to be served.

(12) A budget, including separate cost estimates for salaries and wages, equipment, supplies, services, travel, subcontracts, other direct costs and overhead.

(13) Justification and request for advance payments.

(14) Names and telephone numbers of the tribal organization's business and technical personnel who may be contacted during the evaluation and negotiation process.

(15) A description of the tribal organization including:

(i) The legal and organizational relationship of the tribal organization to the Indians in the area to be served or effected by the contract.

(ii) A description of the participation of Indians in all phases of the tribal organization.

(iii) Whether the tribal organization is controlled, sanctioned or chartered by the governing body of Indians to be served, and, if so, evidence of such fact.

(iv) And, if elected, a description of the election process, voting criteria, and extent of voter participation.

(16) Evidence of adequate liability insurance coverage or an explanation of why such insurance cannot or should not be obtained. Such insurance shall provide that prior to cancellation the Secretary must be notified and must further provide that each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the Tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

(17) The intended financial participation, if any, of the tribal organization or the tribes to be served specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials, or facilities, or other contributions.

(18) Specifically include any requests for waivers to 41 CFR Chapter 1 and 3 in accordance with 36.216.

(c) The Indian Self-Determination Contract Proposal shall be executed by a person or persons authorized to act on behalf of the tribal organization and shall be accompanied by evidence that such person or persons are authorized to bind the tribal organization.

(d) The Indian Self-Determination Contract Proposal should be addressed to the Area Director of the appropriate Indian Health Service Area. Such proposals should be submitted, in 5 copies, well in advance of the desired beginning of support.

(e) Tribal organizations may obtain assistance in preparing Indian Self-Determination contract proposals from the IHS Area Offices. The Area Directors shall make any information available to the tribal organization which is needed in the preparation of its proposal except as may be exempt from disclosure by the Freedom of Information Act, 5 U.S.C. 552(b) and the Department of Health, Education, and Welfare regulations thereunder, 45 CFR, Part 5.

§ 36.206 Tribal clearances—initial contracts.

(a) Before the IHS may enter into a contract with a tribal organization, it must be requested to do so by the tribe. The tribe's request shall be in the form of a resolution by the tribal governing body. If the tribal organization is applying for a contract to perform services benefiting more than one tribe, an authorizing resolution from each tribal governing body must be obtained before submitting the application to IHS for approval. A tribal governing body may pass a single resolution authorizing a tribal organization to apply for, negotiate, and execute more than one contract if the resolution specifies for each contract the same information required in paragraphs (b) and (c) of this section.

(b) The resolution of the tribal governing body shall authorize the applicant tribal organization to apply for, negotiate and contract with the IHS subject to the specific terms, conditions and limitations of the resolution and applicable tribal laws, codes, and regulations and custom. The resolution shall include the date the resolution was approved, and signature of the person authorized to certify the accuracy of the information contained in the resolution.

(c) The tribal governing body's request (resolution) should include the following:

(1) When the tribal organization is the tribal governing body:

(i) A brief statement of the contract scope.

(ii) The tribal official authorized to negotiate the contract and any amendments thereto.

(iii) The tribal official authorized to execute the contract and any amendments thereof.

(iv) The expiration date of the authorities granted by the resolution.

(v) The extent and procedure, if any, for review of the contract and any amendments thereto by the tribal governing body before execution.

(vi) The proposed date for contract commencement.

(vii) The proposed term of the contract.

(2) When the tribal organization is other than the tribal governing body:

(i) The name of the tribal organization.

(ii) A brief statement of the contract scope.

(iii) The extent and procedure, if any, for review by the tribal governing body of the contract and any amendments thereto prior to execution by the tribal organization.

(iv) The tribal office or official to which the IHS should send copies of contract documents and correspondence.

(v) The proposed term of the contract.

(vi) The proposed date for contract commencement.

(vii) Any limitations on authorities granted the tribal organization.

(d) Any procedures specified in this section concerning the manner in which a tribal governing body passes a tribal resolution shall apply except where inconsistent with tribal constitution, law, code, ordinance, or custom. In such cases, the tribal law or procedures shall be cited in the resolution and shall take precedence.

§ 36.207 Tribal clearances — renewal contracts.

The Secretary may renew a contract for the same function(s) or programs as the original contract at the written request of the tribal organization designated in the tribal resolution. Requests for contract renewals shall be made as follows:

(a) If the original contract provided services to only one Indian tribe, written applications for renewal shall be sent by the tribal organization to the Area Office as follows:

(1) Directly, when the tribal organization involved is the governing body of the tribe.

(2) Through the governing body of the tribe for review when the tribal organization is not the governing body of the tribe. Submission shall be made to the governing body at least 75 calendar days before the original contract expires. The tribal organization shall promptly notify the IHS Area Office in writing of the date the tribal governing body received the application. If, within 45 calendar days after receiving the application, the tribal governing body does not provide the IHS Area Director with a formal resolution objecting to the application for renewal, the absence of receipt of such a resolution shall constitute the tribe's request for renewal of the contract.

(b) If the original contract provided services to more than one Indian tribe, the tribal organization must give a copy of the written application for renewal to each tribal governing body at least 75 calendar days before the original contract expires. The tribal organization shall promptly notify the IHS Area Office where the application is to be submitted in writing, of the date the tribal governing bodies received copies of the application. If, within 45 calendar days after receiving copies of the application none of the tribal governing bodies provide the appropriate IHS Area Office with a formal resolution objecting to the application for renewal, the absence of receipt of such resolutions shall constitute the tribes' request for renewal of the contract. If one or more of the tribal governing bodies involved object to the renewal, the contract will not be made until all the tribal governing bodies have approved the request or the matter is otherwise resolved.

§ 36.208 Evaluation criteria.

(a) Indian Self-Determination Contract Proposals will be evaluated to determine: (i) If the service to be rendered to Indian people by the proposed contract will be satisfactory; (ii) if the proposed contract will assure that trust resources are protected; and (iii) if the proposed contract will ensure proper completion and maintenance of the project or function involved. Failure to meet any of the above, may be cause for declination of the Indian Self-Determination Contract Proposal. However, the burden of proof to show cause for declination lies with the approving official.

(b) To determine if an Indian Self-Determination Contract Proposal meets the above criteria, the Area Director and his staff will consider whether the tribal organization would be deficient in performance under the contract with respect to the factors listed in this paragraph.

(1) Equipment, buildings and facilities. No higher standards with regard to buildings, facilities, or equipment shall be applied to tribal organizations than have previously been applicd to IHS. The Indian Health Service shall make available the use of all equipment which has been allocated to the operation of the program by the IHS in the past, unless the IHS determines that the provision of such equipment will seriously interfere with the IHS's ability to provide services to Indian people in noncontracted programs. Where equipment is shared by the programs to be contracted and other non-contracted programs, equipment-sharing or other suitable arrangements will be reflected in the contract.

(2) Bookkeeping and accounting procedures. It must be clearly established by the Indian Health Service that the tribal organization which will undertake the contract does have an adequate accounting and bookkeeping system. IHS may assist the contractor in establishing an acceptable bookkeeping and accounting system.

(3) Substantive knowledge of the program to be contracted. The tribal organization shall be presumed to have substantive knowledge of the program to be contracted if it meets one or more of the following conditions:

(i) The tribal organization has successfully managed a similar program before through grant or contract for which standards have been established.

(ii) The members of the tribal organization have been consumers of such services in the past and have developed an understanding of the program sufficient to enable the tribal organization to effectively carry out the contract operation.

(iii) The tribal organization has made arrangements to obtain and to develop its knowledge of the program.

(4) Community support. Before the IHS can enter into a contract there must be a request made in accordance with § 36.206. The tribal governing body's resolution under § 36.206 shall be presumed to demonstrate that there is community support for the proposed contract. Any assertion of a lack of community support by persons to be served under the contract, is subject to exhaustion of tribal remedies by those making such assertions.

(5) Adequacy of trained personnel. The adequacy of trained personnel available to the tribal organization to carry out the proposed contract will be presumed if any of the following conditions exists:

(i) If the tribal organization has a personnel system that prescribes minimum occupational qualification standards, which shall be not less than minimum Civil Service standards where applicable and procedures for the selection of personnel on the basis of such qualifications, and the personnel to be used under the proposed contract are to be employed under the personnel system.

(ii) If there is no tribal personnel system, it will be assumed that the personnel to be employed under the proposed contract are adequately trained if the tribal organization has established position descriptions for key personnel to be employed under the contract and will establish within a reasonable time a personnel system similar to the one described in paragraph (c)(5)(i) of this section.

(6) Other necessary components of contract performance.

(i) The contractor's proposal must demonstrate the capacity to meet minimum health program and professional standards established by IHS for each major health service activity of the IHS. The Director will establish and make available to any prospective contractor the minimum standards for each major health service activity of the Indian Health Service. In evaluating the contractor's proposal, the IHS will take into account the prevailing health program and professional standards of IHS for the health service activity in the location concerned.

(ii) The contractor's proposal will be evaluated to determine the contractor's ability to meet the Uniform Administrative Standards published as a Notice of Proposed Rulemaking in February 10, 1975 40 F.R. 6304.

(iii) The ability of the contractor to carry out the contract in accordance with IHS policy, the applicable regulations of this Part, and the Act.

(iv) No other components shall be prescribed as a basis for declination unless such components are added to the regulations in this subpart by revision or amendment of regulations.

(7) IHS officials may not decline to enter into a contract with a tribal organization because of any objection that would be overcome through the contract.

§ 36.209 Government property.

(a) In carrying out a contract made under this Part, the Director will wherever possible, permit a tribal contractor to use buildings, facilities, and related equipment and other personal property owned by the IHS within his jurisdiction. Arrangements on the use of IHS property shall be provided for in the contract or other agreement as appropriate. In determining whether real or personal property can be provided, he shall determine whether the IHS can provide comparable services for any of the uncontracted part of the program.

(b) Requests for the use of IHS property which arise after signing of the contract shall be submitted to the relevant IHS official by the tribal organization. Such requests should be granted unless such a use would seriously interfere with the administration of existing IHS programs. The property must conform to the minimum standards established pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651).

§ 36.210 Submitting contract proposals.

(a) When services under the proposed contract will be provided to one or more

tribes within the jurisdiction of a single Area Office, the completed contract proposal with documentation of the tribal request(s) and approvals of each such tribe effected shall be delivered or mailed to the Area Director of that Area Office.

(b) When services will be provided to tribes within the jurisdiction of more than one IHS Area Office, a copy of such proposals and documentation shall be forwarded to each of the Area Offices affected.

§ 36.211 Contract proposal approval officials.

The Director or his delegate is authorized to approve proposals for contract under this subpart.

§ 36.212 Review.

Upon receiving a contract application, Indian Health Service will:

(a) Notify the tribal organization in writing that the proposal has been received. This notice will be made within five (5) calendar days after receipt of the proposal.

(b) Review the proposal for completeness and promptly request additional information from the tribal organization or from the requesting tribe which will be needed to reach a decision.

(c) Notify Area Office subordinate activities serving the tribe(s) which will receive services under the contract and obtain any needed information and/or relevant recommendations on the contract.

(d) Assess the contract proposal to determine if it is feasible and if it complies with the appropriate requirements of the Act and of the regulations in this Subpart.

(e) Meet with representatives of the tribal governing body and contract applicant to resolve any declination issues.

(f) Whenever declination issues cannot be resolved as in (e) above, notify the tribal organization of deficiencies in the proposal and provide to the extent practicable technical assistance, as requested, to overcome such deficiencies.

(g) Approve or disapprove the proposal after fully reviewing and assessing it and any additional information submitted by the tribal organization provided, however, that no action to disapprove shall be taken during the period of provision of technical assistance.

(h) Promptly notify the tribal organization in writing of the decision to approve or disapprove the proposal. If the proposal is disapproved, the notice shall contain but need not be limited to the following:

(i) Specific objections, which are based on failures to meet applicable program or administrative standards or fund restrictions, which preclude acceptance of the Indian Self-Determination Contract Proposal;

(ii) Guidance to the tribe regarding the steps which need to be taken to overcome the stated objections;

(iii) Identification of assistance which can practicably be made available to the tribe upon request to overcome the stated objections;

(iv) Notification to the tribal organization of its right to appeal and to request an informal or formal hearing in accordance with 36.214 of this Subpart.

§ 36.213 Processing time.

The approving official will approve or disapprove a contract proposal within sixty (60) calendar days after receipt. The (60) calendar day deadline may be extended only after obtaining the written consent of the tribal organization.

§ 36.214 Tribal appeals to proposal declinations.

(a) On being advised that an Indian Self-Determination Contract Proposal has been disapproved by the appropriate approving official, and having been informed of the basis of such decision, the tribal organization may file a written appeal to the Contract Proposal Declination Appeals Board within thirty (30) days after receipt of the Declination Notice and may request an informal or formal hearing. The written appeal should either refute or overcome the objections stated as a basis for disapproval. The Contract Proposal Declination Appeals Board shall consider such an appeal, conduct any requested hearing thereon, and recommend a decision to the Director, Indian Health Service, or his representative whose decision shall be final.

(b) The tribal organization and the Indian tribe or tribes affected shall be notified, in writing, of the date, time, place, and purpose of the hearing. The hearing will be conducted within 30 calendar days of written request for a hearing or at such later time as may be agreed upon. The IHS will authorize payment of transportation costs and per diem to allow adequate representation of the applicant, if the meeting is more than 50 miles from the office of the applicant.

(2) The hearing may be held under such rules as may be agreed upon.

(c) If formal hearing is requested, it will be conducted within thirty (30) calendar days from receipt of the written request for a hearing or at such later time as may be agreed upon, and the notice of hearing shall specify in writing the date, time, place, and purpose of the hearing and shall afford the tribe or tribal organization the right:

(1) To written notice of the issues to be considered;

(2) To be represented by counsel;

(3) To written record of the hearing;

(4) To present and cross-examine witnesses;

(5) To file written statements prior to the hearing;

(6) To compel the appearance of Indian Health Service personnel or to take depositions of such persons at reasonable times and places.

(d) The decision of the Director, IHS, or his representative on the appeals will be rendered within (15 calendar days from the date of receipt by the Director of the IHS of the Board's recommendation.

(e) The Contract Proposal Declination Appeals Board shall be composed of 5 members appointed by the Director, Indian Health Service, one of whom shall be designated to serve as Chairman.

PROCUREMENT

§ 36.215 Applicability of regulations.

Contracts with tribal organizations resulting from the submission of Indian Self-Determination Contract Proposals as authorized in Public Law 93-638 shall be in accordance with Chapters 1 and 3 of 41 CFR.

§ 36.216 Waivers.

(a) The Secretary may, for good cause shown, waive for the purposes of a specific contract any federal contracting laws and regulations which he determines are not appropriate for the purposes of the contract involved or are inconsistent with the Act.

(b) Requests for waivers may be initiated by tribal organizations or IHS contracting officers. Such requests will be forwarded to the Director, IHS for decision or further processing to the Secretary as required.

(c) A waiver request shall set forth clearly and precisely the following:

(1) The nature and basis of the needed waiver;

(2) Identification of the procurement regulation provision from which the waiver is needed;

(3) The circumstances under which the waiver would be used;

(4) The intended effect of the waiver;

(5) The length of time for which it can be anticipated that the waiver will be required;

(6) Reasons which will contribute to complete understanding and support of the requested waiver;

(7) Copies of pertinent background papers such as forms, contractor requests, etc.

(d) Whenever a waiver is requested by a tribal organization and such request is denied, the tribal organization will be notified of the reasons for denial.

§ 36.217 Fair and equal treatment of Indian people.

Contracts awarded to tribal organizations pursuant to the Indian Self-Determination Act shall incorporate the following clause:

The Contractor agrees, consistent with medical need, to make no discriminatory distinctions among Indian patients or beneficiaries of this contract. For the purpose of this contract discriminatory distinctions include but are not limited to the following:

(a) Denying a patient any service or benefit or availability of a facility;

(b) Providing any service or benefit to a patient which is different, or is provided in a different manner or at a different time from that provided to other patients under this contract; subjecting a patient to segregation or separate treatment in any manner related to his receipt of any service; restricting a patient in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service benefit; treating a patient differently from others

in determining whether he satisfies any admission, enrollment, quota, eligibility membership, or other requirements or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of discriminatory distinctions which may be made of the patients to be served.

§ 36.218 Types of contracts.

Cost-reimbursement type contracts provide for payment to the contractor of allowable costs incurred in the performance of the contract, to the extent prescribed in the contract: This type of contract establishes an estimate of total cost for the purpose of obligation of funds, and a monetary ceiling which the contractor may not exceed. Except as provided below, cost reimbursement contracts will be used for all contracts made pursuant to this subpart. A negotiated cost reimbursement contract shall contain the terms set out in section 3–4.6013 of 41 CFR.

(a) Fixed-price contracts may be used in those instances where costs can be precisely established. A negotiated fixed-price contract shall contain the terms set out in section 3–4.6014 of 41 CFR.

(b) Cost sharing contracts may be used where the tribe contributes to the cost of a program and may specify a percentage of cost or fixed amount to be funded by the government.

§ 36.219 Term of contract.

(a) The term of contracts awarded under the Acts shall normally be for one year except that contracts may be made for a longer term up to three years subject to the availability of appropriations under the following circumstances:

(1) The services provided under the contract can reasonably be expected to be continuing in nature and, as a result, a longer contract term would be advantageous.

(2) The Indian tribe or tribes to be served by the contract request that the term be more than one year. The tribal organization will indicate the desired term of the contract in the Self-Determination Contract Proposal.

(b) Contracts made for a term of more than one year may be renegotiated annually to reflect factors which include, but need not be limited to, cost increases beyond the control of the tribal contractor. Proposed changes in the services provided under the contract which reflect changes in program emphasis may be considered during the annual renegotiation if the changes fall within the general scope of the contract.

§ 36.220 Use of Indian business concerns.

Contracts awarded under authority of the Act shall incorporate the following clause, which is also set forth in 41 CFR 3–4.6013 and 3–4.6014.

(a) As used in this clause, the term "Indian business concern" means Indian organizations or an Indian-owned economic enterprise as defined in 42 CFR 36.204(1).

(b) The contractor agrees to give preference to qualified Indian business concerns in the awarding of any subcontracts entered into under the contract consistent with the efficient performance of the contract. The contractor shall comply with any preference requirements regarding Indian business concerns established by the tribe(s) receiving services under the contract to the extent that such requirements are consistent with the purpose and intent of this paragraph.

(c) If no Indian business concerns are available under the conditions in paragraph (b) above, the contractor agrees to accomplish the maximum amount of subcontracting, as the contractor determines is consistent with its efficient performance of the contract, with small business concerns, labor surplus area concerns or minority business enterprises, the definitions for which are contained in Subparts 1–1.7, 1–1.8, and 1–1.13 of the Federal Procurement Regulations. The contractor is not, however, required to establish a small business, labor surplus, or minority business subcontracting program as described in 1–1.710–3(b), 1–1.805–3(b) and 1–1.1310–2(b), respectively of the Federal Procurement Regulations (41 CFR 1).

§ 36.221 Indian preference in training and employment.

Contracts awarded under authority of the Act shall incorporate the following clause, which is also set forth in 41 CFR 3–4.6013 and 3–4.6014.

INDIAN PREFERENCE IN TRAINING AND EMPLOYMENT

(a) The contractor shall give preference in employment for all work performed under the contract, including subcontracts thereunder, to qualified Indians regardless of age, religion or sex and, to the extent feasible consistent with the efficient performance of the contract, provide employment and training opportunities to Indians, regardless of age, religion or sex that are not fully qualified to perform under the contract. The contractor shall comply with any Indian preference requirements established by the tribe receiving services under the contract to the extent that such requirements are consistent with the purpose and intent of this paragraph.

(b) If the contractor or any of its subcontractors is unable to fill its employment openings after giving full consideration to Indians as required in paragraph (a) above, these employment openings may then be filled by other than Indians under the conditions set forth in the Equal Opportunity clause of this contract.

(c) The contractor agrees to include this clause or one similar thereto in all subcontracts issued under the contract.

§ 36.222 Indemnity and insurance.

Contracts awarded under authority of the Act shall incorporate the following clause, which is also set forth in 41 CFR 3–4.6013 and 3–4.6014.

(a) The Contractor shall indemnify and save and keep harmless the Government against any or all loss, cost, damage, claim, expense or liability whatsoever, because of accident or injury to persons or property or others occurring in connection with any program included as a part of this contract, by providing where applicable, the insurance described below.

(b) The Contractor shall secure, pay the premium for, and keep in force until the expiration of this contract, or any renewal period thereof, insurance as provided below. Such insurance policies shall specifically include a provision stating the liability assumed by the Contractor under this contract.

(1) Workmen's compensation insurance as required by laws of the State.

(2) Owner's, landlord's and tenant's bodily injury liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(3) Property damage liability insurance with limits not less than $25,000 for each accident.

(4) Automobile bodily injury liability insurance with limits of not less than $50,000 for each person, and $500,000 for each accident and property damage liability insurance with a limit of not less than $5,000 for each accident.

(5) Food products liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(6) Professional malpractice insurance where medical, dental or other health professional services are involved.

(7) Other liability insurance not specifically mentioned when required.

(c) Each policy of insurance shall contain an endorsement providing that cancellation by the insurance company shall not be effective unless a copy of the cancellation is mailed (registered) to the Contracting Officer 30 days prior to the effective date of cancellation.

(d) A certificate of each policy of insurance, and any change therein, shall be furnished to the Contracting Officer immediately upon receipt from the insurance company.

(e) Insurance companies of the Contractor shall be satisfactory to the Contracting Officer. When in his opinion an insurance company is not satisfactory for reasons that will be stated, the Contractor shall provide insurance through companies that are satisfactory to the Contracting Officer.

(f) Each policy of insurance shall contain a provision that the insurance carrier waives any rights it may have to raise as a defense the tribe's sovereign immunity from suit, but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy of insurance. The policy shall contain no provision, either expressed or implied, that will serve to authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

§ 36.223 Exemption from bonds.

A tribal organization is not required to furnish performance and payment bonds before carrying out a contract under this Part for the construction of public buildings or works as required by the Miller Act of August 24, 1935 (49 Stat. 793), as amended. However, the tribal organization shall require each of its subcontractors, other than tribal organizations, to furnish both performance and payment bonds as follows:

(a) A performance bond with a surety or sureties satisfactory to the approving official, and in an amount he deems ade-

quate, for the protection of the United States.

(b) A payment bond with a surety or sureties satisfactory to the approving official for the protection of all persons supplying labor and material in carrying out the contract the use of each person. Whenever the total amount payable by the terms of the contract is not more than $1,000,000 the payment bond shall be one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract is more than $1,000,000 but not more than $5,000,000, the payment bond shall be 40 percent of the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract is more than $5,000,000 the payment bond shall be $2,500,000.

§ 36.224 Construction and architect-engineering contracts.

The special provisions, procedures, and requirements applicable to construction and architect-engineering service contracts are set forth in § 3-4.6008 of 41 CFR.

§ 36.225 Performance of personal services.

Any contract made under this subpart may include provisions for the performance of personal services which would otherwise be performed by Federal employees. Such services include, but are not limited to, performing the following functions in connection with the contract and applicable rules and regulations:

(a) Determining the eligibility of applicants for assistance, benefits, or services.

(b) Determining the extent or amount of assistance, benefits, or services to be provided.

(c) Providing such assistance, benefits, or services.

§ 36.226 Advance payments.

Contracts awarded under the authority of the Act shall incorporate the following clause, which is also set forth in 41 CFR 3-4.6013 and 3-4.6014.

(a) *Amount of Advance.* At the request of the contractor, and subject to the conditions hereinafter set forth, the Government shall make an advance payment, or advance payments from time to time, to the Contractor. No advance payment shall be made (1) without the approval of the officer administering advance payments (hereinafter called the "Administering Office" and designated in paragraph (k)(4) hereof) as with all advance payments theretofore made, shall exceed the amount stated in paragraph (k)(1) hereof; and (3) without a properly certified invoice or invoices.

(b) *Special Bank Account.* Until all advance payments made hereunder are liquidated and the Administering Office approves in writing the release of any funds due and payable to the Contractor, all advance payments and all other payments under the contract shall be made by check payable to the Contractor, and be marked for deposit only in a Special Bank Account with the bank designated in paragraph (k)(2) hereof. No part of the funds in the Special Bank Account shall be mingled with other funds of the contractor prior to withdrawal thereof from the Special Bank Account as hereinafter provided. Except as hereinafter provided, each withdrawal shall be made only by check of the Contractor countersigned on behalf of the Government by the Contracting Officer or such other person or persons as he may designate in writing (hereinafter called the "Countersigning Agent"). Until otherwise determined by the Administering Office, countersignature on behalf of the Government will not be required.

(c) *Use of Funds.* The funds in the Special Bank Account may be withdrawn by the Contractor solely for the purposes of making payments for items of allowable cost or to reimburse the Contractor for such items of allowable cost, and for such other purposes as the Administering Office may approve in writing. Any interpretation required as to the proper use of funds shall be made in writing by the Administering Office.

(d) *Return of Funds.* The Contractor may at any time repay all or any part of the funds advanced hereunder. Whenever so requested in writing by the Administering Office, the Contractor shall repay to the Government such part of the unliquidated balance of advance of advance payments as shall in the opinion of the Administering Office be in excess of current requirements, or (when added to total advance previously made, and liquidated) in excess of the amount specified in paragraph (k)(1) hereof. In the event the Contractor fails to repay such part of the unliquidated balance of advance payments when so requested by the Administering Office, all or any part thereof may be withdrawn from the Special Bank Account by checks payable to the Treasurer of the United States signed solely by the Countersigning Agent and applied in reduction of advance payments then outstanding hereunder.

(e) *Liquidation.* If not otherwise liquidated, the advance payments made hereunder shall be liquidated as herein provided. When the sum of all payments under this contract, other than advance payments, plus the unliquidated amount of advance payments are equal to the total estimated cost for the work under this contract or such lesser amount to which the total estimated cost under this contract may have been reduced, plus increases, if any, in this total estimated cost not exceeding, in the aggregate (including, without limitation, reimbursable costs incident to termination for cause and retrocession as estimated by the Contracting Officer), the Government shall thereafter withhold further payments to the Contractor and apply the amounts withheld against the Contractor's obligation to repay such advance payments until such advance payments shall have been fully liquidated. If upon completion, termination, or retrocession of the contract all advance payments have not been fully liquidated, the balances therefore shall be deducted from any sums otherwise due or which may become due to the Contractor from the Government, and any deficiency shall be paid by the Contractor to the Government upon demand.

(f) *Bank Agreement.* Before an advance payment is made hereunder, the Contractor shall transmit to the Administering Office, in the form prescribed by such office, an Agreement in triplicate from the bank in which the Special Bank Account is established, clearly setting forth the special character of the account and the responsibilities of the bank thereunder. Wherever possible, such bank shall be a member bank of the Federal Reserve System, or an "insured" bank within the meaning of the Act creating the Federal Deposit Insurance Corporation Act of August 23, 1935, 49 Stat. 685, as amended (12 U.S.C. 264).

(g) *Lien on Special Bank Account.* The Government shall have a lien upon any balance in the Special Bank Account paramount to all other liens, which lien shall secure the repayment of any advance payments made hereunder.

(h) *Lien on Property under Contract.* Any and all advance payments made under this contract shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, upon the supplies or other things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other provision of this contract, or otherwise, shall have valid title to such supplies, materials, or other property as against other creditors of the Contractor. The Contractor shall identify, by marking or segregation, all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. If for any reason such supplies, materials, or other property are not identified by marking or segregation, the Government shall be deemed to have a lien to the extent of the Government's interest under this contract on any mass of property with which such supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over such property on his books and records. If at time during the progress of the work on the contract it becomes necessary to deliver any item or items and materials upon which the Government has a lien as aforesaid to a third person, the Contractor shall notify such third person of the lien herein provided and shall obtain from such third person a receipt, in duplicate, acknowledging, inter alia the existence of such lien. A copy of each receipt shall be delivered by the Contractor to the Contracting Officer. If this contract is terminated in whole or in part and the Contractor is authorized to sell or retain termination inventory acquired for or allocated to this contract, such sale or retention shall be made only if approved by the Contracting Officer,

which approval shall constitute a release of the Government's lien hereunder to the extent that such termination inventory is sold or retained, and to the extent that the proceeds of the sale, or the credit allowed for such retention on the Contractor's termination claim, is applied in reduction of advance payments then outstanding hereunder.

(i) *Insurance.* The Contractor represents and warrants that he is now maintaining with responsible insurance carriers, (1) insurance upon his own plant and equipment against fire and other hazards to the extent that like properties are usually insured by others operating plants and properties of similar character in the same general locality; (2) adequate insurance against liability on account of damage to persons or property; and (3) adequate insurance under all applicable workmen's compensation laws. The Contractor agrees that, until work under this contract has been completed and all advance payments made hereunder have been liquidated, he will (i) maintain such insurance; (ii) maintain adequate insurance upon any materials, parts, assemblies, subassemblies, supplies, equipment and other property acquired for or allocable to this contract and subject to the Government lien hereunder; and (iii) furnish such certificates with respect to his insurance as the Administering Office may from time to time require.

(j) *Prohibition against Assignment.* Notwithstanding any other provision of this contract, the Contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(k) *Designations and Determinations.* (1) *Amount.* The amount of advance payments at any time outstanding hereunder shall not exceed $_____.

(2) *Depository.* The bank designated for the deposit of payments made hereunder shall be:

(3) *Interest Charge.* No interest shall be charged for advance payments made hereunder. The Contractor shall charge interest at the rate of 6 percent per annum on subadvances or down payments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on nonprofit subcontracts with nonprofit educational or research institutions for experimental, research or development work.

(4) *Administering Office.* The office administering advance payments shall be the office designated as having responsibility for awarding the contract.

(l) *Other Security.* The terms of this contract shall be considered adequate security for advance payments hereunder, except that if at any time the administering Office deems the security furnished by the Contractor to be inadequate, the Contractor shall furnish such additional security as may be satisfactory to the Administering Office, to the extent that such additional security is available.

§ 36.227 Recordkeeping, reporting and audit.

(a) The standard clauses regarding "Accounts, Audit, and Records" and "Examination of Records" as set forth in 41 CFR 3–4.60 apply to contracts awarded under the Act. Further, Recordkeeping will be in accordance with uniform Administrative Standards.

(b) In addition, where Federal financial assistance is involved in the contract effort, the following clause, which is also set forth in 41 CFR 3–4.60, will be incorporated as a special provision of such contracts:

REPORTS TO THE INDIAN PEOPLE

The contractor, as a recipient of Federal financial assistance, shall make reports and information available to the Indian people served or represented by the contractor. Such reports will reflect how the Federal assistance funds were utilized to the benefit of the Indian people served or represented as follows: (insert specific reporting requirements formats and method of distribution to the Indian people as may be prescribed in the scope of the contract and the Uniform Administrative Standards).

(c) Annual Reporting. (1) For each fiscal year during which a tribal organization receives or expends funds pursuant to a contract under this subpart, the tribe which requested the contract must submit a report to the Area Director. The report shall include, but need not be limited to, an accounting of the amounts and purposes for which the contract funds were expended and information on the conduct of the program or services involved. The report shall include any other information requested by the Area Director and shall be submitted as follows:

(i) When the contract is with the governing body of an Indian tribe, the tribe shall submit the report to the Area Director.

(ii) When the contract is with a tribal organization other than the governing body of the tribe, the tribe has the option of having the tribal organization prepare the report and submit it to the tribe for review and approval before the tribe submits it to the Area Director.

(iii) When the contract benefits more than one tribe, the tribal organization shall prepare and submit the report to each of the tribes benefiting under the contract. Each tribe shall endorse the report before submitting it to the Area Director.

(2) The annual report shall be submitted to the Area Director within 60 days of the end of the fiscal year in which the contract was performed. However, the period for submitting the report may be extended if there is just cause for such extension.

(3) In addition to the yearly reporting requirement given in paragraphs (a) and (b) of this section, the tribal contractor shall furnish other reports required by the Secretary.

§ 36.228 Availability of information.

(a) Except as otherwise provided herein and so long as the release of information does not constitute an unwarranted invasion of personal privacy, a tribal contractor under this subpart shall make all reports and information concerning the contract available to the Indian people served or represented by the contractor.

(b) A contractor shall hold confidential all information obtained by personnel under the contract from persons receiving services under the contract related to their examination, care, and treatment, and shall not release such information without the individual's consent except as may be required by law, as may be necessary to provide service to the individual, or as may be necessary to monitor the operations of the program or otherwise protect the Public Health. Information may be disclosed in a form which does not identify particular individuals.

§ 36.229 Penalties.

Section 6 of Pub. L. 93–638, 25 U.S.C. 450(d) provides:

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of a contract or subcontract pursuant to this Act or the Act of April 16, 1934 (48 Stat. 596), as amended, embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of such a contract, or subcontract, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, but if the amount so embezzled, willfully misapplied, stolen, or by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 36.230 Contract revisions or amendments.

(a) Any contract made under this Subpart may be revised or amended as deemed necessary to carry out the purposes of the program, project, or function being contracted. Those changes initiated by the Government shall be subject to the applicable contract Change Clauses prescribed in 41 CFR 3–4.6013 and 3–4.6014.

(b) However, a tribal contractor may make a written request for a revision or amendment of a contract to the Contracting Officer. Such requests will be treated in the same manner as initial Self-Determination Proposals and evaluated in accordance with the criteria specified in § 36.208 of this Subpart. If the contracting officer declines revision or amendment of the contract as requested, he shall notify the tribal organization in writing within 30 days after receiving the request. Thereafter, an appeal to the Contracting Officer's declination to amend the contract will follow the same processing and procedures outlined in § 36.214 of this Subpart.

§ 36.231 Retrocession of contract programs.

(a) Whenever an Indian tribe requests retrocession for any contract or portion thereof entered into under this Subpart, retrocession shall be in accordance with the clause titled "Retrocession" as set

forth in 41 CFR 3–4.6013 and 3–4.6014, and shall be effective upon a date specified by the Contracting Officer but no later than 120 days after the date of the request from the tribe, except when the tribe and the Contracting Officer mutually agree on a later date.

(b) Immediately after a request for retrocession, representatives of the tribe and the Contracting Officer shall meet and take the following actions:

(1) Mutually agree on a plan for orderly transfer of responsibilities.

(2) Mutually agree on a plan for inventorying materials and supplies on hand.

(3) Establish an accounting of funds, current and anticipated obligations, and costs of operation until the retrocession date.

(4) Identify all records relating to the contract and to the contracted function.

(c) On the date of retrocession, the tribal contractor will deliver to the Contracting Officer all property, materials, supplies and records of whatever nature which have been identified as necessary for the continuation of the program, project or function.

(d) Within 30 calendar days after retrocession, the tribe will furnish the Contracting Officer with a report including but not limited to an accounting of the amounts and purposes for which Federal funds were expended, a description and evaluation of program accomplishments, and reasons why retrocession was requested.

(e) Retrocession of a contract by an Indian tribe shall be without prejudice to:

(1) Any other contract to which it is a party.

(2) Any other contracts it may request.

(3) Any future request to contract for the programs or services covered by the retroceded contract.

(f) Tribal assumption of retroceded contracts. Whenever an Indian tribe chooses to retrocede a contract operated by a tribal organization other than the tribal governing body, the tribal governing body may request to contract for the program. In such a case, the tribal governing body shall submit a contract proposal pursuant to this subpart.

§ 36.232 Contractor assistance.

To the extent practicable, the Director, Indian Health Service, shall, at the request of a tribal organization, provide technical assistance to the contractor in attempting to resolve problems or deficiencies in the performance of the contract and to assist the contractor in taking such corrective action as may be prescribed pursuant to Section 36.233(a).

§ 36.233 Assumption and reassumption of contract programs.

(a) When the Director or his delegate determines that the performance of a contractor under these regulations involves (1) the violation of the rights or endangerment of the health, safety, or welfare or any persons, or (2) gross negligence or the mismanagement in the handling or use of funds under the contract, he will, in writing, notify the contractor of such determination and will request that the contractor take such corrective action within such period of time as the Director or his delegate may prescribe.

(b) When the Director or his delegate determines that a contractor has not taken corrective action (as prescribed by him under paragraph (a) of this section) to his satisfaction, he may, after the contractor has been provided an opportunity for a hearing in accordance with paragraph (c) of this section, rescind the contract in whole or in part and, if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved.

(c)(1) When the Director or his delegate has made a determination described in paragraph (b) of this section, he shall in writing notify the contractor of such determination and of the contractor's right to request a review of such determination and of the determination described in paragraph (a) of this section. Such notification by the Director or his delegate shall set forth the reasons for the determination in sufficient detail to enable the contractor to respond and shall inform the contractor of its right to a hearing on the record before a Contract Appeals Board described in paragraph (d) of this section. Upon the request of the contractor for a hearing, the Board, established pursuant to paragraph (d) of this section shall in writing within 10 days of the establishment notify the contractor of the time, place and date of the hearing which will be held not later than 45 days after the request for a hearing.

(2) Where the Director or his delegate determines that a contractor's performance under a contract awarded under this subpart poses an immediate threat to the safety of any person, he may immediately rescind the contract in whole or in part and, if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved. Upon such a decision he will immediately notify the contractor of such action and the basis therefor; and offer the contractor an opportunity for a hearing on the record before the Contract Appeals Board established pursuant to paragraph (d) of this section to be held within 10 days of each action.

(d)(1) The Contract Appeals Board shall be composed of 3 persons appointed by the Director, Indian Health Service. Such persons may not be selected from the immediate office of any person participating in the determinations at issue. The Board shall afford the contractor the right:

(i) To notice of the issues to be considered;

(ii) To be represented by counsel;

(iii) To present witnesses on contractor's behalf;

(iv) To cross-examine other witnesses either orally or through written interrogatories; and

(v) To compel the appearance of Indian Health Service personnel or to take depositions of such persons at reasonable times and places.

(2) The Contracts Appeals Board shall make an initial written decision which shall become final with 20 days unless the Director, Indian Health Service or his representative modifies or reverses the decision. Any such decision by the Director of the Indian Health Service or his representative be in writing, shall be specific as to the reasons for such decision, and shall be considered final.

(3) Where Board is considering issues arising under paragraph (c)(2) of this section, the Board shall within 25 days after the conclusion of the hearing, notify all parties in writing of its decision, which shall be considered final.

(e) In any case where the officer has rescinded a contract under paragraphs (b) or (d) of this section, he may decline to enter into a new contract agreement with the contractor until such time as he is satisfied that the basis for the rescission has been corrected.

Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

§ 36.234 Operation of retroceded or reassumed contracts.

(a) The IHS shall endeavor to provide to the tribe(s) and Indians served by a retroceded or reassumed contract not less than the same quantity and quality of service it would have provided if there had been no contract.

(b) The IHS shall endeavor to provide to the tribe(s) and Indians served by a retroceded or reassumed contract not less than the same quantity and quality of permanent and temporary personnel that meet the U.S. Civil Service qualifications, it would have provided if there has been no contract.

(c) IHS officials cannot decline to accept a retroceded contract or to reassume a contract because they are unable to provide the quality and quantity of service and personnel required in paragraphs (a) and (b) of this section.

§ 36.235 Contract funds.

The tribal organization shall be entitled to be funded for direct and indirect costs at a level which is not less than would have been provided if the IHS had operated the program or portion thereof during the contract period.

§ 36.236 Unexpended funds under contract.

(a) If it becomes apparent during the contract term that the estimated amount of a contract under this subpart will be in excess of actual expenditures under the contract, the identified unexpended funds will be used to provide additional services or benefits within the scope or limitations of the contract.

(b) When both the tribal organization and the IHS agree that it is not practicable to spend all contract funds during the contract term, to the extent authorized by law unexpended funds may be carried over into the succeeding fiscal year contract. Unexpended funds carried over into a succeeding fiscal year shall be added to the contract amount for that fiscal year.

§ 36.237 Contract funding and renegotiation.

The following clause shall be included in contracts awarded under the Act which have a term of more than one year:

CONTRACT FUNDING AND RENEGOTIATION

Funds other than those appropriated during the fiscal year in which the contract commenced, that are included in the contract amount are subject to the availability of appropriations from Congress and there shall be no legal liability on the part of the Government in regard to such funds unless and until they are appropriated. Funds appropriated during the fiscal year in which the contract commenced that are included in the contract amount but not expended at the end of such fiscal year may be carried over and used for contract purposes in the succeeding fiscal year of the contracts operation or, may be used to provide additional services upon modification of the contract to include such services therein.

Each succeeding year of the contract may be renegotiated prior to the end of the then current fiscal year in order to reflect changes that have taken place beyond the control of the contractor since the contract was originally negotiated or last renegotiated as is applicable.

[FR Doc.75-30624 Filed 11-13-75;8:45 am]

federal register

FRIDAY, NOVEMBER 14, 1975



PART IV:

FEDERAL ELECTION COMMISSION

■

FEDERAL CAMPAIGN FUNDS

Correction and Notice of Hearing

1980

FEDERAL ELECTION COMMISSION

[11 CFR Part 106]

[Notice 1975-76]

FEDERAL CAMPAIGN FUNDS

Allocation of Candidate and Committee Activities; Hearings

The Federal Election Commission announces hearings on its Allocation Regulations published on November 5, 1975, at 40 FR 51610, to be held on Wednesday, November 19, and Friday, November 21, beginning at 10:00 a.m., in the Commission hearing room, 5th Floor, 1325 K Street, N.W., Washington, D.C.

Persons interested in testifying should contact the Rulemaking Section, Office of General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463, telephone (202) 382-5657 by the close of business Tuesday, November 18, 1975.

Dated: November 12, 1975.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

[FR Doc.75-30984 Filed 11-13-75;8:45 am]

[11 CFR Parts 120, 121, 122, 123, 124]

[Notice 1975-77]

FEDERAL CAMPAIGN FUNDS

Public Financing of Convention Regulations; Correction

The Federal Election Commission on November 4, 1975, at 40 FR 51348, published its proposed regulations on Convention Financing. Two subsections in the definition section, § 120.2, were inadvertently omitted from the published version. The Commission today publishes a corrected § 120.2. It should be substituted for the § 120.2 published on November 4.

§ 120.2 Definitions.

The following definitions shall apply for the purposes of Parts 120-129.

(a) "Commission" means the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463, telephone (202) 382-5162.

(b) "Fund" means the Presidential Election Campaign Fund established by 26 U.S.C. 9006(a).

(c) "Major party" means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(d) "Minor party" means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

(e) "Qualified convention expense"

(1) Means any expense incurred with respect to a presidential nominating convention (including the payment of deposits) by or on behalf of the national committee, including, but not limited to, those convention expenses referred to in § 109.5 of these regulations such as personnel, printing, rental, and site-selection costs.

(2) Does not include—(i) Any expense, such as travel and accommodation expenses, of any candidate, delegate, delegate alternate, or the expenses of any staff member of such person who is participating in any presidential nominating convention; and

(ii) Any expense the incurring or payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

(f) "Secretary" means the Secretary of the Treasury of the United States.

Dated: November 12, 1975.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

[FR Doc.75-30983 Filed 11-13-75;8:45 am]

federal register

FRIDAY, NOVEMBER 14, 1975



PART V:

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination 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 determination frequently and in large volume causes 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

Modifications 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.

Modifications to general wage determination decisions. The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

California:	
CA75–5087; CA75–5088	July 25, 1975.
Colorado:	
CO75–5101	Aug. 8, 1975.
CO75–5118	Sept. 19, 1975.
CO75–5129	Oct. 17, 1975.
Florida:	
FL75–1083; FL75–1084	Sept. 5, 1975.
Georgia:	
GA75–1005	Jan. 17, 1975.
Indiana:	
IN75–2088	June 27, 1975.
IN75–2089	July 3, 1975.
IN75–2093	July 11, 1975.
Louisiana:	
LA75–4141	Aug. 1, 1975.
Mississippi:	
MS75–1106; MS75–1107	Oct. 31, 1975.
Pennsylvania:	
PA75–3057	May 30, 1975.
Texas:	
TX75–4117	July 11, 1975.
TX75–4154	Aug. 22, 1975.
TX75–4162; TX75–4165	Oct. 24, 1975.
TX75–4182	Oct. 31, 1975.
West Virginia:	
WV75–3105	Oct. 17, 1975.

Supersedeas decisions to general wage determination decisions. The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision number are in parentheses following the numbers of the decision being superseded.

Iowa:	
IA75–4181 (IA75–4190)	Oct. 31, 1975.
Maryland:	
MD75–3065 (MD75–3110)	July 18, 1975.
Massachusetts:	
MA75–2073 (MA75–2124)	May 2, 1975.
MA 75–2074 (MA 75–2125); MA75–2075 (MA75–2126).	May 9, 1975.
MA75–2077 (MA75–2128)	May 16, 1975.
Michigan:	
MI75–2102 (MI75–2129)	Aug. 8, 1975.
Mississippi:	
MS75–1044 (MS75–1109)	Apr. 11, 1975.
Oregon:	
OR75–5123 (OR75–5133)	Oct. 10, 1975.
Tennessee:	
TN75–1070 (TN75–1108)	July 18, 1975.

Signed at Washington, D.C. this 7th day of November 1975.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

DECISION #CA75-5087 - Mod. #3
(40 FR 31487 - July 25, 1975)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers; Stonemasons:					
Riverside and San Bernardino Counties	$10.50	.70	.80		.205
Brick Tenders	7.805	.85	1.65	.50	
Electricians:					
Orange County:					
Electricians	11.40	.45	1%+.85		.02
Cable Splicers	11.92	.45	1%+.85		.02
Glaziers:					
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Counties	10.76	.55	.95		.04
Lathers:					
Inyo and Kern Counties	9.13	.60	1.30	.70	.05
Line Construction:					
Kern County (China Lake Naval Ordance Test Station and Edwards AFB)					
Groundmen	10.1875	.70	1%+1.00		.10
Linemen	12.75	.70	1%+1.00		.10
Cable Splicers	14.025	.70	1%+1.00		.10
Kern County (Remainder of County)					
Groundmen	7.6875	.70	1%+1.00		.10
Linemen	10.25	.70	1%+1.00		.10
Cable Splicers	11.275	.70	1%+1.00		.10
Plasterers:					
Los Angeles and Orange Cos.	9.745	.68	1.85	.70	.10
Plaster Tenders:					
Imperial, Inyo, Mono Riverside and San Bernardino Counties	9.53	.85	1.65	.45	
Los Angeles and Orange Counties	9.225	.85	1.95	.75	

DECISION #CA75-5087 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plaster Tenders (Cont'd):					
Santa Luis Obispo County	$7.75	.85	1.65	.50	
Santa Barbara County (except Santa Maria)	9.18	.85	1.65	.50	
Santa Barbara County (Santa Maria)	8.98	.85	1.65	.50	
Ventura County	9.08	.85	1.65	1.05	
Roofers:					
Imperial County	9.34	.40	.75	1.00	
Riverside and San Bernardino Counties	9.30	.60	.65	1.00	
Soft Floor Layers:					
Kern County (Remaining portion)	9.02	.60	.45	.52	.03

DECISION NO. CA75-5087 (Cont'd)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLEANING AND HANDLING OF PANEL FORMS; Concrete screeding for rough strike off; Concrete, water curing; Demolition laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling of shear-bolt holes; Fire watcher, limbers, brush loaders, pilers and debris handler; Gas and oil pipeline; Laborers, general or construction; Laborer, temporary water and air lines; Material boseman (walls, slab, floors and decks); Mixer-truck chute man (Walls, Slab Decks, floors, foundations and footing-curb and gutter and sidewalks); Rigging and signalling; Slip form raisers; Window cleaner	$7.20	.85	1.65	.50	.10
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	7.25	.85	1.65	.50	.10
GUNITE CHASER	7.38	.85	1.65	.50	.10
ASPHALT SHOVELER; Fine grader, highway and street paving, airports, runways, and similar type heavy construction; Landscape gardener and nursery man	7.30	.85	1.65	.50	.10
PACKING ROD STEEL AND PANS; Tank scaler and cleaner	7.32	.85	1.65	.50	.10
UNDERGROUND (INCLUDING CAISSON BELLOWERS)	7.33	.85	1.65	.50	.10
CHUCK TENDER; Septic tank digger and installer	7.35	.85	1.65	.50	.10
CESSPOOL DIGGER AND INSTALLER	7.38	.85	1.65	.50	.10

DECISION NO. CA75-5087 (Cont'd)

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CONCRETE CURER-IMPERVIOUS MEMBRANE AND FORM OILER; Rip rap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	$7.39	.85	1.65	.50	.10
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING, DIAPERING and INCLUDING RUBBER GASKET JOINTS, POINTING and ANY and ALL OTHER SERVICES	7.49	.85	1.65	.50	.10
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Gas and oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper and tiller; Tree climber, faller, chain saw operator, Pittsburg chipper and similar type brush shredders; Trenching machine, hand propelled	7.41	.85	1.65	.50	.10
ASPHALT RAKER, LUTEMAN and IRONER; Concrete core cutter, grinder or sander; Concrete saw man, cutting, scoring old or new concrete, Impact wrench, multi-plate; Pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not separately classified herein; Tampers, barko wacker and similar type	7.51	.85	1.65	.50	.10
ROCK SLINGER	7.46			.50	.10
DRILLER, JACKHAMMER - 2½ ft. DRILL STEEL OR LONGER	7.59	.85	1.65	.50	.10
CONCRETE VIBRATOR OPERATOR, 70 lbs. and over	7.61	.85	1.65	.50	.10

DECISION NO. CA75-5087 (Cont'd)

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GAS AND OIL PIPELINE WRAPPER - (6" and over); Kettlemen, pot men and men applying asphalt, lay-kold, creosote, lime caustic and similar type materials	$7.54	.85	1.65	.50	.10
CRIBBER, SHORER, LAGGING, SHEETING, AND TRENCH BRACKING, HAND-GUIDED LAGGING HAMMER	7.71	.85	1.65	.50	.10
BLASTER POWDERMAN	7.85	.85	1.65	.50	.10
STEEL HEADERBOARD MAN AND GUIDE-LINE SETTER	7.62	.85	1.65	.50	.10
SANDBLASTER (Nozzleman)	7.65	.85	1.65	.50	.10
DRILLER (Core-Diamond-Wagon)	7.85	.85	1.65	.50	.10
HEAD ROCK SLINGER	7.72	.85	1.65	.50	.10
GUNNITE LABORERS:					
Nozzlemen and Rodmen	8.82	.85	1.65	.50	.10
Gunmen	8.32	.85	1.65	.50	.10
Reboundmen	7.36	.85	1.65	.50	.10

DECISION NO. CA75-5087 (Cont'd)

LABORERS (Tunnel)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
BATCH PLANT LABORERS; Bull gang mucker, trackman; Concrete crew, including rodders and spreaders; Dumpman; Dumpman (outside); Swamper (brakeman and switchman on tunnel work); Tunnel materials handling man; Tool man	$8.68	.85	1.65	.50	
CABLE TENDER, Chucktender; Nipper; Steel form raiser and setter's helper; Vibratorman, jackhammer, pneumatic tools (except driller)	8.80	.85	1.65	.50	
BLASTER, Driller, Powderman; Chemical grout jetman; Cherry pickerman; Grout gunman; Grout mixerman; Group pumpman; Jackleg miner; Jumbo man; Kemper and other pneumatic Concrete placer operator; Miner tunnel (hand or machine); Powderman (primer house); Primer man; Shotcrete man; Steel form raiser and setter; Timberman; Retimberman (wood or steel); Tunnel concrete finisher	8.96	.85	1.65	.50	
SHAFT, Raise miner; Diamond driller	9.24	.85	1.65	.50	

DECISION #CA75-5088 - Mod. #3
(40 FR 31496 - July 25, 1975)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons:					
Riverside and San Bernardino Counties	$10.50	.70	.80		.205
Brick Tenders	7.805	.85	1.65	.50	
Electricians:					
Orange County:					
Electricians	11.40	.45	1%+.85		.02
Cable Splicers	11.92	.45	1%+.85		.02
Glaziers:					
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Cos.	10.76	.55	.95		.04
Lathers:					
Kern County	9.13	.60	1.30	.70	.05
Plasterers:					
Los Angeles and Orange Cos.	9.745	.68	1.85	.70	.10
Plaster Tenders:					
Imperial, Riverside and San Bernardino Counties	9.53	.85	1.65	.45	
Los Angeles and Orange Cos.	9.225	.85	1.95	.75	
San Luis Obispo County	7.75	.85	1.65	.50	
Santa Barbara County (except Santa Maria)	9.18	.85	1.65	.50	
Santa Barbara County (Santa Maria)	8.98	.85	1.65	.50	
Ventura County	9.08	.85	1.65	1.05	
Roofers:					
Imperial County	9.34	.40	.75	1.00	
Riverside and San Bernardino Counties	9.30	.60	.65	1.00	
Soft Floor Layers:					
Kern County (Remaining portion)	9.02	.60	.45	.52	.03

DECISION NO. CA75-5088(Cont'd)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLEANING AND HANDLING OF PANEL FORMS; Concrete screeding for rough strike off; Concrete, water curing; Demolition laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling of shee-bolt holes; Fire watcher, limbers, brush loaders, pilers and debris handler; Gas and oil pipeline; Laborers, general or construction; Laborer, temporary water and air lines; Material hoseman (walls, slab floors and decks); Mixer-truck chute man (Walls, Slab Decks, floors, foundations and footing-curb and gutter and sidewalks); Rigging and signalling; Slip form raisers; Window cleaner	$ 7.20	.85	1.65	.50	.10
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	7.25	.85	1.65	.50	.10
GUINEA CHASER	7.38	.85	1.65	.50	.10
ASPHALT SHOVELER; Fine grader, highway and street paving, airports, runways and similar type heavy construction; Landscape gardener and nursery man	7.30	.85	1.65	.50	.10
PACKING ROD STEEL AND PANS; Tanks scaler and cleaner	7.32	.85	1.65	.50	.10
UNDERGROUND (INCL. CAISSON BELLOWERS)	7.33	.85	1.65	.50	.10
CHUCKTENDER; Septic tank digger and installer	7.35	.85	1.65	.50	.10
CESSPOOL DIGGER AND INSTALLER	7.38	.85	1.65	.50	.10
CONCRETE CURER - IMPERVIOUS MEMBRANE AND FORM OILER; Rip rap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	7.39	.85	1.65	.50	.10

DECISION NO. CA75-5088 (Cont'd)

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING, DIAPERING & INCLUDING RUBBER GASKET JOINTS, POINTING & ANY AND ALL OTHER SERVICES	$ 7.49	.85	1.65	.50	.10
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Gas and oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper and tiller; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredders; Trenching machine, hand propelled	7.41	.85	1.65	.50	.10
ASPHALT RAKER, LUTEMAN AND IRONER; Concrete core cutter, grinder or sander; concrete saw man, cutting scoring old or new concrete, Impact wrench, multi-plate; Pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not separately classified herein; Tampers, barko wacker and similar type	7.51	.85	1.65	.50	.10
ROCK SLINGER	7.46	.85	1.65	.50	.10
DRILLER, JACKHAMMER - 2 1/2 Ft. DRILL STEEL OR LONGER	7.59	.85	1.65	.50	.10
CONCRETE VIBRATOR OPERATOR, 70 lbs. and over	7.61	.85	1.65	.50	.10
PIPELAYER (NON-METALLIC INCL. SEWER, DRAIN AND UNDERGROUND TILE); Prefabricated manhole installer	7.71	.85	1.65	.50	.10
GAS AND OIL PIPELINE WRAPPER - (6" and over); Kettlemen, potmen and men applying asphalt, lay-kold, creosote, lime caustic and similar type materials	7.54	.85	1.65	.50	.10

DECISION NO. CA75-5088 (Cont'd)

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CRIBBER, SHORER, LAGGING, SHEETING, AND TRENCH BRACKING, HAND-GUIDED LAGGING HAMMER	$ 7.71	.85	1.65	.50	.10
BLASTER POWDERMAN	7.85	.85	1.65	.50	.10
STEEL HEADERBOARD MAN AND GUIDELINE SETTER	7.62	.85	1.65	.50	.10
SANDBLASTER (Nozzleman)	7.65	.85	1.65	.50	.10
DRILLER (Core-Diamond-Wagon)	7.85	.85	1.65	.50	.10
HEAD ROCK SLINGER	7.72	.85	1.65	.50	.10
GUNNITE LABORERS:					
NOZZLEMEN AND BOOMEN	8.82	.85	1.65	.50	.10
GUNMEN	8.32	.85	1.65	.50	.10
REBOUNDMEN	7.36	.85	1.65	.50	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #CO75-5101 - Mod. #3 (40 FR 33595 - August 8, 1975) El Paso County, Colorado					
Change:					
Carpenters: (Building Construction)					
Zone 1 (0-30 miles from P. O. in Colorado Springs)	$7.94	.53	.70	.50	.035
Zone 2 (30 miles and over from P. O. in Colorado Springs)	8.19	.53	.70	.50	.055
Carpenters: (Heavy Construction)					
Carpenters	7.89	.53	.60	.40	.055
Underground Carpenters Working on creosoted material, High work 40' above ground or floor on exposed scaffold or boatswains chair; Piledriving; Sawmen continuously assigned to 1½ HP saws at jobsite	8.09	.53	.60	.40	.055
	8.19	.53	.60	.40	.055
DECISION #CO75-5118 - Mod. #2 (40 FR 43449 - September 19, 1975) Statewide, Colorado					
Change:					
Carpenters	$7.89	.53	.60	.40	.055

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #CO75-5129 - Mod. #1 (40 FR 48848 - October 17, 1975) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado					
Change:					
Carpenters: (Heavy Construction)					
Carpenters	$7.89	.53	.60	.40	.055
Underground Carpenters Working on creosoted material, High work 40' above ground or floor on exposed scaffold or boatswains chair; Piledriving; Sawmen continuously assigned to 1½ HP saws at jobsite	8.09	.53	.60	.40	.055
	8.19	.53	.60	.40	.055
DECISION # FL75-1083 - Mod. #1 (40 FR 41361 September 5, 1975) Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highland, Lee, & Okeechobee Counties, Florida.					
Add to Counties:					
Monroe					
DECISION # FL75-1084 - Mod. #1 (40 FR 41362 September 5, 1975) Broward & Palm Beach Counties, Florida					
Add:					
Laborers:					
Common	3.00				

DECISION # GA75-1005 - Mod. #5 (40 FR 3091 - January 17, 1975) Richmond County, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers:					
Structural, Ornamental & Reinforcing	8.35	.45	.60		.03

DECISION NO. IN75-2088 - Mod. #4 (40 FR 27422 - June 27, 1975) Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Grant County:					
Carpenters	$8.58	.45	.45		.05
Piledrivermen	8.78	.45	.45		.05
Millwrights	9.08	.45	.45		.05
Glaziers:					
Allen & Grant Counties	8.88	d		.30+e	.04
Ironworkers:					
Bartholomew, Delaware (s. 2/3 of Co.), Grant (sw portion), & Monroe Cos.	10.15	.65	.90		.05
Marion County	10.00	.65	.90		.05
Dearborn County:					
Ornamental; Structural	10.545	.65	.70		.03
Painters:					
Allen & Grant Counties:					
Brush; Paperhangers; Roller; & Tapers	7.55	.37	.35		.10
Sandblasters; Spray	8.75	.37	.35		.10
Delaware County:					
Brush; Taping	7.55		.30		
Sandblasters; Spray	8.30		.50		
Steeplejack; Water towers	8.55		.50		
Marion County:					
Brush; Drywall tapers & finishers; Rollers	8.70	.30	.20		
Sandblasters; Spray	9.70	.30	.20		
Vigo County:					
Brush; Drywall finishing; Paperhangers; & Rollers	7.90			.25	
Spray	8.90			.25	
Structural steel to 30'	8.15			.25	
Structural steel 30' to 100'	8.90			.25	
Structural steel over 100'	9.90			.25	
Plasterers:					
Benton (e. 2/3 w. to & incl. Boswell, Earl Park, & Raub), & Tippecanoe Counties	9.00	.45			

DECISION NO. IN75-2088 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Roofers:					
Bartholomew, Marion, Monroe Counties:					
Composition; Waterproofers	$9.49	.30	.30		
Slate, Tile, Asbestos, & precast slab	9.74	.30	.30		
Helpers	7.99	.30	.30		
Omit:					
Line construction schedules:					
IND-LC-AREA 1					
IND-LC-AREA 2					
Add:					
Line Construction schedule					

DECISION NO. IN75-2088 Cont'd

Allen, Bartholomew, Benton, Dearborn, Delaware, Marion, Monroe, Tippecanoe, & Vigo Counties

IND-LC-AREA 1

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
EXCLUSIVE OF CALUMET AREA					
Linemen; Technicians	$9.03	.35	1%		.5%
Heavy equipment operator "A"	8.58	.35	1%		.5%
Heavy equipment operator "B"	7.08	.35	1%		.5%
Powder man & equipment mechanic	6.91	.35	1%		.5%
Senior groundman truck driver w/w	5.92	.35	1%		.5%
Groundman truck driver with winch	5.69	.35	1%		.5%
Groundman truck driver w/o winch	4.99	.35	1%		.5%
Senior groundman after 5 years	5.68	.35	1%		.5%
Senior groundman after 12 months	5.52	.35	1%		.5%
Groundman 0-12 months	4.69	.35	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.33	.35	1%		.5%
Heavy equipment operator "A"	8.65	.35	1%		.5%
Heavy equipment operator "B"	7.14	.35	1%		.5%
Powder man & equipment mechanic	6.97	.35	1%		.5%
Senior groundman truck driver w/w	6.03	.35	1%		.5%
Groundman truck driver with winch	5.76	.35	1%		.5%
Groundman truck driver w/o winch	5.06	.35	1%		.5%
Senior groundman after 5 years	5.80	.35	1%		.5%
Senior groundman after 12 months	5.64	.35	1%		.5%
Groundman 0-12 months	4.79	.35	1%		.5%

DECISION NO. IN75-2089 - Mod. #4
(40 FR 28346 - July 3, 1975)
Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
LaPorte(excluding Michigan City); & St. Joseph Counties:					
Brush; Drywall tapers & finish; Paperhangers;					
Spray; & Vinyl	$7.96		.20		
Sheet metal workers:					
Lake, LaPorte, & Porter Cos.	10.67	.48	.67		.10
Truck drivers:					
Lake & Porter Counties:					
2 to 3 axles	7.60	20.00e	20.00e	.35	
4 axles	7.80	20.00e	20.00e	.35	
5 axles	8.00	20.00e	20.00e	.35	
6 axles	8.20	20.00e	20.00e	.35	
Omit:					
Line construction schedule					
Add:					
Line construction schedule					

DECISION NO. IN75-2089 Cont'd

IND-LC-AREA 1

LINE CONSTRUCTION

EXCLUSIVE OF CALUMET AREA

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Linemen; Technicians	$9.03	.35	1%		.5%
Heavy equipment operator "A"	8.58	.35	1%		.5%
Heavy equipment operator "B"	7.08	.35	1%		.5%
Powder man & equipment mechanic	6.91	.35	1%		.5%
Senior groundman truck driver w/w	5.92	.35	1%		.5%
Groundman truck driver with winch	5.69	.35	1%		.5%
Groundman truck driver w/o winch	4.99	.35	1%		.5%
Senior groundman after 5 years	5.68	.35	1%		.5%
Senior groundman after 12 months	5.52	.35	1%		.5%
Groundman 0-12 months	4.69	.35	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.33	.35	1%		.5%
Heavy equipment operator "A"	8.65	.35	1%		.5%
Heavy equipment operator "B"	7.14	.35	1%		.5%
Powder man & equipment mechanic	6.97	.35	1%		.5%
Senior groundman truck driver w/w	6.03	.35	1%		.5%
Groundman truck driver with winch	5.76	.35	1%		.5%
Groundman truck driver w/o winch	5.06	.35	1%		.5%
Senior groundman after 5 years	5.80	.35	1%		.5%
Senior groundman after 12 months	5.64	.35	1%		.5%
Groundman 0-12 months	4.79	.35	1%		.5%

DECISION #IN75-2093 - Mod. #4
(40 FR 29491 - July 11, 1975)
Statewide, except Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Cement masons:					
Clark, Floyd, & Harrison Cos.	$9.28	.40			
Ironworkers:					
Marion Co.	10.00	.65	.90		.05
Bartholomew, Boone (se ½ of Co.), Brown, Clinton (e. 1/3 of Co.), Decatur (w. ½ of Co.), Delaware (s. 2/3 of Co.), Grant (sw of Co.), Hamilton, Hancock, Hendricks, Henry, Howard, Jackson (n. ½ of Co.), Jennings (n. ½ of Co.), Johnson, Lawrence (ne 1/6 of Co.), Madison, Monroe, Morgan, Owen, Putnam (e. ½ of Co. excluding Greencastle), Rush, Shelby, & Tipton Cos.	10.15	.65	.90		.05
Painters:					
Adams, Allen, Dekalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley, & Wells (n. ½ of Co. to & incl. Bluffton):					
Brush; Paperhangers; Rollers; & Tapers	7.55	.37	.35		.10
Sandblasters; & Spray	8.75	.37	.35		.10
Blackford, Carroll, Cass, Delaware, Fulton, Howard, Jay, Madison, Miami, Tipton, Wells (to the south city limits of Bluffton), & White Counties:					
Brush	7.55		.30		
Spray	8.30		.30		
Elkhart, Kosciusko, Marshall, Pulaski, & Starke Counties:					
Brush; Drywall tapers & finish; Paperhangers; Spray; & Vinyl	7.96		.20		

DECISION #IN75-2093 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Sullivan, & Vigo Cos.:					
Brush	$7.90			.25	
Spray	8.90			.25	
Structural steel up to 30'	8.15			.25	
Structural steel 30' to 100'	8.90			.25	
Structural steel over 100'	9.90			.25	
Omit:					
Line Construction schedules:					
Ind-Lc-Area I					
Ind-Lc-Area II					
Add:					
Painters:					
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Brush	7.60				
Sandblasting; Spray	8.60				
Structural steel; Scaffold over 30'	7.85				
Epoxy	9.60				
Line Construction Schedule					

DECISION #IN75-2093 Cont'd

Statewide, except Clinton, DuBois, Fountain, Gibson, Grant, Howard, Miami, Perry, Pike, Posey, Spencer, Tipton, Vanderburgh, Vermillion, Wabash, Warren, & Warrick Counties

IND-LC-AREA 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION					
EXCLUSIVE OF CALUMET AREA					
Linemen; Technicians	$9.03	.35	1%		.5%
Heavy equipment operator "A"	8.58	.35	1%		.5%
Heavy equipment operator "B"	7.08	.35	1%		.5%
Powder man & equipment mechanic	6.91	.35	1%		.5%
Senior groundman truck driver w/w	5.92	.35	1%		.5%
Groundman truck driver with winch	5.69	.35	1%		.5%
Groundman truck driver w/o winch	4.99	.35	1%		.5%
Senior groundman after 5 years	5.68	.35	1%		.5%
Senior groundman after 12 months	5.52	.35	1%		.5%
Groundman 0-12 months	4.69	.35	1%		.5%
CALUMET AREA					
Linemen; Technicians	9.33	.35	1%		.5%
Heavy equipment operator "A"	8.65	.35	1%		.5%
Heavy equipment operator "B"	7.14	.35	1%		.5%
Powder man & equipment mechanic	6.97	.35	1%		.5%
Senior groundman truck driver w/w	6.03	.35	1%		.5%
Groundman truck driver with winch	5.76	.35	1%		.5%
Groundman truck driver w/o winch	5.06	.35	1%		.5%
Senior groundman after 5 years	5.80	.35	1%		.5%
Senior groundman after 12 months	5.64	.35	1%		.5%
Groundman 0-12 months	4.79	.35	1%		.5%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IA75-4141 - Mod. #4 (40 FR 37585 - August 1, 1975) Statewide Louisiana					
Change:					
Asbestos workers:					
Zone 2	$8.78	.30	.51		.025
Bricklayers & stonemasons:					
Zone 1	8.24	.30	.25		.06
Zone 3	8.95	.43	.25		.02
Zone 4	9.43	.25	.20		.035
Zone 7	8.25	.40	.45		
Zone 8	8.00		.30		
Zone 10	8.90				
Carpenters:					
Zone 2	7.895	.30	.23		.05
Zone 4	8.00	.20	.30		.04
Zone 5	9.22	.20	.20		.04
Zone 6	9.055	.20	.20		.04
Cement masons (Building Construction):					
Zone 1	7.11				
Zone 2	7.65				
Zone 4	8.765	.25	.30		.04
Zone 6	5.75				
Zone 7	7.30	.30			
Zone 9	6.25		.30		
Electricians:					
Electricians:					
Zone 3	10.20	.35	1%+.20		1/10%
Zone 4	9.55	.35	1%		
Zone 5	9.70	.30	1%+.30		.03
Zone 7	9.00	.60	1%		1%
Cable splicers:					
Zone 3	10.45	.35	1%+.20		1/10%
Zone 4	9.80	.35	1%		
Zone 5	9.70	.30	1%+.30		.03
Zone 7	9.50	.60	1%		1%

DECISION #IA75-4141 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers (Building Construction):					
Zone 1	$9.36	.30	.35		.04
Zone 2	8.99	.45	.35		.04
Zone 3	8.95	.35	.35		.04
Zone 4	8.70	.35	.60		.04
Zone 6	8.65	.35	.35		.025
Laborers (Building Construction):					
Zone 2:					
Group 1	4.87	.15	.10		.05
Group 2	5.07	.15	.10		.05
Zone 3:					
Group 1	6.03	.15	.10		.05
Group 2	6.13	.15	.10		.05
Group 3	6.18	.15	.10		.05
Group 4	6.99	.15	.10		.05
Group 5	6.55	.15	.10		.05
Group 6	6.29	.15	.10		.05
Group 7	6.08	.15	.10		.05
Zone 4:					
Group 1	5.73	.15	.10		.05
Group 2	5.83	.15	.10		.05
Group 3	5.88	.15	.10		.05
Zone 5:					
Group 1	5.33	.15	.10		.05
Group 2	5.43	.15	.10		.05
Group 3	5.48	.15	.10		.05
Zone 6:					
Group 1	6.41	.15	.20		.05
Group 2	6.51	.15	.20		.05
Group 3	6.66	.15	.20		.05
Group 4	6.55	.15	.20		.05
Group 5	6.65	.15	.20		.05
Zone 7:					
Group 1	6.105	.15	.20		.05
Group 2	6.255	.15	.20		.05
Group 3	6.305	.15	.20		.05

DECISION #IA75-4141 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Building Construction) (Cont'd):					
Zone 8					
Group 1	$4.50	.15	.10		.05
Group 2	4.70	.15	.10		.05
Group 3	4.75	.15	.10		.05
Group 4	4.80	.15	.10		.05
Group 5	5.15	.15	.10		.05
Zone 9:					
Group 1	5.10	.15	.10		.05
Group 2	5.20	.15	.10		.05
Group 3	5.25	.15	.10		.05
Group 4	5.30	.15	.10		.05
Zone 10:					
Group 1	4.92	.15	.10		.05
Group 2	5.02	.15	.10		.05
Group 3	5.17	.15	.10		.05
Lathers:					
Zone 3	8.785	.30			.01
Line Construction:					
Zone 1:					
Linemen	9.70	.30	1%+.30		.03
Operator hole digging equipment; operator, tractor with winch & derrick; operator line truck with winch & derrick working hot lines	75%JR	.30	1%+.30		.03
Operator using hole truck & trailer, or pole hauling & setting truck (not in energized lines)	65%JR	.30	1%+.30		.03
Operator using truck without winch; Groundmen (starting rate to 1½ yrs. service)	45%JR	.30	1%+.30		.03
Groundmen (1½ yrs. service or over)	50%JR	.30	1%+.30		.03
Zone 3:					
Linemen, equipment operators	10.20	.35	1%+.20		1/10%
Cable splicers	10.45	.35	1%+.20		1/10%
Groundmen	8.20	.35	1%+.20		1/10%
Zone 4:					
Linemen & equipment operators	9.55	.35	1%		
Cable splicers	9.80	.35	1%		
Groundmen	50%JR	.35	1%		

DECISION #IA75-4141 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction (Cont'd):					
Zone 7:					
Linemen; Operators	$9.00	.60	1%		1%
Cable splicers	9.50	.60	1%		1%
Groundmen	7.00	.60	1%		1%
Marble setters:					
Zone 1	9.43	.25	.20		.035
Zone 2	8.95	.43	.25		.02
Zone 3	8.90				
Zone 5	7.25	.30			
Marble setters' helpers:					
Zone 2	5.02	.15	.10		.05
Millwrights:					
Zone 1	9.345				.05
Zone 2	9.55	.20	.20		.04
Zone 3	10.055				.05
Painters:					
Zone 6:					
Group 1	6.30				
Group 2	6.80				
Group 3	7.30				
Piledrivermen:					
Zone 2	8.00	.20	.30		.04
Zone 3	9.32	.20	.20		.04
Zone 4	7.895	.30	.23		.05
Plasterers:					
Zone 3	8.22				
Zone 6	6.00				.01
Zone 9	8.00		.30		
Power Equipment Operators (Building Construction):					
Zone 1 (excluding Residential Construction in Caddo & Bossier Parishes:					
Group 1	6.11	.25	.48		.05
Group 2	6.39	.25	.48		.05
Group 3	6.68	.25	.48		.05
Group 4	6.73	.25	.48		.05
Group 5	7.01	.25	.48		.05
Group 6	8.22	.25	.48		.05

DECISION #IA75-4141 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Building Construction) (Cont'd):					
Zones 2 & 3:					
Group 1	$6.44	.25	.15		.05
Group 2	6.72	.25	.15		.05
Group 3	7.01	.25	.15		.05
Group 4	7.06	.25	.15		.05
Group 5	7.34	.25	.15		.05
Group 6	8.55	.25	.15		.05
Zone 4:					
Group 1	6.11	.25	.48		.05
Group 2	6.39	.25	.48		.05
Group 3	6.68	.25	.48		.05
Group 4	6.73	.25	.48		.05
Group 5	7.01	.25	.48		.05
Group 6	8.22	.25	.48		.05
Zone 5:					
Group 1	6.335	.25	.48		.05
Group 2	6.075	.25	.48		.05
Group 3	5.905	.25	.48		.05
Group 4	6.565	.25	.48		.05
Group 5	8.495	.25	.48		.05
Group 6	6.895	.25	.48		.05
Group 7	7.45	.25	.48		.05
Zone 6:					
Group 1	6.43	.25	.30		.05
Group 2	6.02	.25	.30		.05
Group 3	5.85	.25	.30		.05
Group 4	6.25	.25	.30		.05
Group 5	6.82	.25	.30		.05
Group 6	7.71	.25	.30		.05
Group 7	8.55	.25	.30		.05
Group 8	8.80	.25	.30		.05
Group 9	9.05	.25	.30		.05
Group 10	9.30	.25	.30		.05
Zone 7:					
Group 1	9.22	.25	.48		.05
Group 2	9.47	.25	.48		.05
Group 3	6.72	.25	.48		.05
Group 4	7.09	.25	.48		.05
Group 5	7.66	.25	.48		.05
Group 6	8.97	.25	.48		.05

DECISION #LA75-4141 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Zone 3:					
Roofers	$6.66	.35	.35		.04
Roofers' helpers	4.74	.35	.35		.04
Soft floor layers:					
Zone 1	7.895	.30	.23		.05
Zone 2	9.22	.20	.20		.04
Zone 3	9.055	.20	.20		.04
Zone 4	7.55	.20			
Zone 7	7.05				
Terrazzo workers:					
Zone 2	8.95	.43	.25		.02
Zone 3	7.25				
Zone 5	7.25	.30			
Terrazzo workers' helpers:					
Zone 2	5.02	.15	.10		.05
Tile setters:					
Zone 5	7.25	.30			
Tile setters' helpers:					
Zone 2	5.02	.15	.10		.05
Add:					
Piledrivermen:					
Zone 9 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes	7.895	.30			

DECISION NO. MS75-1106 - Mod. #1 (40 FR 50914 - October 31, 1975) Hinds County, Mississippi	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$8.80	.60	1.00		.02
Elevator Constructors:					
Elevator constructor	7.83	.495	.32	4%+a&b	.02
Helpers	5.48	.495	.32	4%+a&b	.02
Helpers (probationary)	3.915				
Ironworkers:					
Ornamental, reinforcing, & structural	7.15	.30	.33		.04
Lathers	7.65				
Line Construction:					
Linemen	8.38		1%	c	
Cable splicer (electric)	8.69		1%	c	
Groundman (over 1 year)	5.08		1%	c	
Groundman (less than 1 year)	4.71		1%	c	
Sprinkler fitter	9.35	.50	.80		.08

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, and F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. One week paid vacation after one year's service.

DECISION NO. MS75-1107 - Mod. #1 (40 FR 50916 - October 31, 1975) Hancock, Harrison, Jackson, & Pearl River Counties, Mississippi.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$8.80	.60	1.00		.02
Electricians:					
Electricians	8.80	.25	1% + .20		1/8%
Cable splicers	9.05	.25	1% + .20		1/8%
Elevator Constructors:					
Elevator constructor	7.83	.495	.32	4%+a & b	.02
Helpers	5.48	.495	.32	4%+a & b	.02
Helpers (probationary)	3.915				
Lathers	8.00		.10		.01
Line Construction:					
Linemen	8.80	.25	1% + .20		1/8%
Cable splicers	9.05	.25	1% + .20		1/8%
Sprinkler fitters	9.35	.50	.80		.08
Truck drivers:					
Group I	6.35	.35	.35		
Group II	6.04	.35	.35		
Group III	8.25	.35	.35		
Group IV	8.97	.35	.35		
Group V	5.56	.35	.35		
Group VI	6.35	.35	.35		
Group VII	6.67	.35	.35		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; and F-Christmas Day.

FOOTNOTES:

a. Holiday: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision No. PA-75-3077 - Mod. 5 (40 FR 47455 - May 30, 1975) Blair County, Pennsylvania:					
Change:					
Bricklayers & Stonemasons	$9.30	.45	.70		
Cement masons	8.65	3%	6%		
Lathers	8.97	.50	.35		.01
Plasterers	8.50				.01
Plumbers & Steamfitters	9.73	.63	.68		.15
DECISION #MY75-4117 - Mod. #4 (40 FR 29577 - July 11, 1975) Jefferson & Orange Cos., Texas					
Change:					
Laborers:					
Group 5 - Machine man & nozzleman for gunniting 1½" & over	$6.365	.28	.30		.02
Roofers:					
Roofers	7.89	.20	.25	.15	.03
Kettlemen	7.02	.20	.25	.15	.03
Helpers	5.08	.20	.25	.15	.03
DECISION #TX75-4154 - Mod. #3 (40 FR 36995 - August 22, 1975) Galveston & Harris Cos., Texas					
Change:					
Electricians:					
Galveston County	10.09	.40	1%+.40		.06
Plasterers:					
Galveston County	8.72	.42	.30		.02
Roofers:					
Roofers	7.89	.20	.25	.15	.03
Kettlemen	7.02	.20	.25	.15	.03
Helpers	5.08	.20	.25	.15	.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX75-4162 - Mod. #1 (40 FR 49971 - October 24, 1975) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Carpenters:					
Carpenters:					
Zone 2	7.97	.23			
Millwrights:					
Zone 1	8.37	.23			
Glaziers	6.30				
Ironworkers	8.44	.55	.60		.12
Cmdt:					
Building Construction:					
Carpenters:					
Piledrivermen:					
Zone 1	7.74	.18			
DECISION #TX75-4165 - Mod. #1 (40 FR 49965 - October 24, 1975) Bowie County, Texas					
Change:					
Ironworkers	8.95	.35	.35		.04
DECISION #TX75-4182 - Mod. #1 (40 FR 50919 - October 31, 1975) El Paso County, Texas					
Change:					
Plumbers & steamfitters	7.79	.38	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #WV75-3105 - Mod. #1 (40 FR 42884 - October 17, 1975) Statewide, West Virginia					
Change:					
Bricklayers & Stonemasons					
ZONE 9	$ 9.04		.40		
Electricians:					
ZONE 8					
Wiremen	9.80	.30	1%+.32	1.02	.04
Cable Splicers	10.78	.30	1%+.32	1.02	.04
Ironworkers					
ZONE 3	9.67	.65	.70		.01
ZONE 4					
Area 1 - 10 mile from Union Hall	10.26	.65	.70		.01
Area 2 - 10-15 mile from Union Hall	10.41	.65	.70		.01
Area 3 - 15-20 miles from Union Hall	10.51	.65	.70		.01
Area 4 - 20-25 miles from Union Hall	10.61	.65	.70		.01
ZONE 5	9.34	.50	.60		
Line Construction					
ZONE 7					
Linemen & Operators (all mechanized equipment	8.35	.30	1%+.87	1.27	½ of 1%
Cable Splicers	9.185	.30	1%+.87	1.27	½ of 1%
Groundmen & Truck Drivers	6.68	.30	1%+.87	1.27	½ of 1%
Plumbers & Pipefitters					
ZONE 6					
Plumbers	9.78	.45	.30		.05
Steamfitters	9.82	.45	.15		.05

	NEW	REPAINT				
	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Educat and/o Appr.
PAINTERS:						
ZONE 1						
Brush	$ 8.04	7.78				
Air Compressor Operator	8.04	7.78				
Roller, Spray, Dipping & Kitten Work	8.32	7.11				
Water blasters, Steam jenny nozzle men, swinging scaffold & Boatswain chair, window belt & window belt & window jack work	8.32	7.81				
Brush painters on bridges, needle beam, cable work power tool work, brush & flame cleaning	8.68	8.20				
Sand blaster	8.98	8.51				
All stacks, vent pipes, flag poles, in excess of 30' high, all towers, water towers, elevated tanks, electrical switch yards, transformer banks, television towers	9.84	9.49				
Spray painter or sandblaster on Bridges needle beam cable work	8.98	8.45				

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Woodbury (City of Sioux City and abutting municipalities)

DECISION NO.: IA75-4190 DATE: Date of Publication

Supersedes Decision No. IA75-4181, dated October 31, 1975, in 40 FR 50919.

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.
ASBESTOS WORKERS	$ 9.49	.35	.40		
BOILERMAKERS	9.45	.70	1.00		.02
BRICKLAYERS-STONEMASONS	9.26		.20		.01
CARPENTERS:					
Carpenters; Piledrivermen	7.00	.30	.25		.01
Millwrights	7.30	.30	.25		.01
CEMENT MASONS	8.255				
ELECTRICIANS	9.59	.27	1%		1%
ELEVATOR CONSTRUCTORS	7.64	.395	.26	2-1/2%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.395	.26	2-1/2%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	6.95				
IRONWORKERS:					
Ornamental; Reinforcing; Structural	8.785	.30	.25		.01
LABORERS:					
Common laborers	6.65	.37	.20		
Mortar mixer; Plasterers' mixers; Air tool operators; Mechanical tampers; Concrete saw; Gunnite nozzle; Chain saw; Wrecking torch; Sandpot and blasting	6.80	.37	.20		
LATHERS	7.20				.01
LINE CONSTRUCTION:					
Cable Splicers; Lineman; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	8.28	.35	1%		1/2%
Groundman; Truck Driver (without winch); Experienced (not less than 6 months)	5.38	.35	1%		1/2%
Groundman; Truck Driver (with winch)	5.55	.35	1%		1/2%
Blaster; Special Equipment Operator (Hole Digging Machines, all tractors, transmission lines equipment other than assembled "H" fixtures)	6.62	.35	1%		1/2%
Groundman - 1st 6 months	4.55	.35	1%		1/2%
MARBLE SETTERS	9.26		.20		.01

DECISION NO. IA75-4190

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Brush	$ 7.78	.40	.30		
Spray; All swing work; All work higher than 40 Ft. - scaffolds, jacks, ladders, etc., Pressure poller, sandblasting; Structural steel over 25 Ft.	8.28	.40	.30		
PLASTERERS	7.30				
PLUMBERS-STEAMFITTERS	8.74	.30	.55		.10
ROOFERS:					
Roofers	7.43				
Kettlemen	7.21				
SHEET METAL WORKERS	8.62	.35	.25		
SPRINKLER FITTERS	10.40	.50	.80		.08
TERRAZZO WORKERS	9.26		.20		.01
TILE SETTERS	7.20				
TRUCK DRIVERS	5.49	.37	.20		.02
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.

PAID HOLIDAYS:

New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:

Group 1	8.50	.40	.50		.05
Group 2	8.38	.40	.50		.05
Group 3	7.585	.40	.50		.05
Group 4	7.28	.40	.50		.05

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (lowerman)

Group 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixer; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push Cat; Truck cranes and cherry pickers (under 12½ ton); Concrete Mixers (1 yard and over); Ditching machine (8' and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)

Group 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air Compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW and over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"

Group 4 - Oilers; Mechanical Heaters; Truck Crane Drivers; Permanent elevators.

SUPERSEDEAS DECISION

STATE: Maryland LOCATION: Baltimore City
DECISION NO.: MD75-3110 DATE: Date of Publication
Supersedes Decision No.: MD75-3065, dated July 18, 1975 in 40 FR 30413
DESCRIPTION OF WORK: Highway Construction (excluding bridge construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 9.00	.65	.59		.05
Cement Masons	9.12	.45	.50		
Electricians	9.60	.60	1%+60		3%
Ironworkers:					
Structural & reinforcing	9.07	.70	1.35		.04
Fence erectors	8.72	.70	1.35		.04
Laborers	6.35	.30	.30		.075
Truck Drivers:					
Pickups	6.21	.65	.45	a+b	
Dumps	6.39	.65	.45	a+b	
Drop-frame, gooseneck, trailer driver	6.59	.65	.45	a+b	
Euclids & dumpsters	6.70	.65	.45	a+b	

FOOTNOTES:

a. 9-paid holidays: New Year's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day and Employee's Birthday, providing employee has worked one day and was available for work during the holiday week.

b. Employees who has worked 100 days in the previous contract year and have 1 year of service, 1 week's paid vacation: 2 years of service, 2 weeks paid vacation; 10 years of service, 3 weeks paid vacation.

DECISION NO. MD-75-3110

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 8.27	.65	.50	a	.10
GROUP II	7.77	.65	.50	a	.10
GROUP III	7.27	.65	.50	a	.10
GROUP IV	6.27	.65	.50	a	.10
GROUP V					
a	8.77	.65	.50	a	.10
b	8.97	.65	.50	a	.10
c	9.17	.65	.50	a	.10
d	9.37	.65	.50	a	.10
e	10.02	.65	.50	a	.10

FOOTNOTE:

a. Paid Holidays, New Year's Day; Memorial; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee works three days in the work week in which the holiday occurs.

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION

Group I - Backfiller, backhoe, batching plants, Cableway, Case type hoe (with a front end bucket over 1-½ yds.), concrete mixing plants, concrete paver, derrick, derrick boat, double concrete pump, dragline, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds and over), grader, gradall, hoist (2 active drums or more), pile driving machine, power crane, power shovel, repair mechanic, [illegible] locomotive, trenching machine, tunnel mucking machine, two engine scoop, welder, whirley rig.

Group II - Asphalt spreader, bulldozer, bull float, Case type hoe (with a front end bucket 1-½ yds. and under), concrete mixer (with a slip), concrete pump, concrete spreader, ditch-witch type trencher, excavating scoop (under 25 yds.), finishing machine, front end loader (under 1-3/4 yds.), grout pump, hi-lift, longitudinal float, narrow-guage locomotive, one drum hoist, power roller, screeding machine, stone crusher, stone spreader, tractor with attachments (2 or more provided both attachments are being used), subgrader, well-drill.

Group III - Compressors, conveyors, firemen, fueltruck, grease truck, light plants, mighty midget with compressor, space heaters, welding machines wellpoint system

DECISION NO. MD-75-3110

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION (Cont'd)

Group IV - Oilers (all types)

Group V - Long boom cranes, including jibs, and on piledriver machines with leads:
a. 130 Ft. to 169 Ft.
b. 170 Ft. to 209 Ft.
c. 210 Ft. to 249 Ft.
d. 250 Ft. to 299 Ft.
e. 300 Ft. and over

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Middlesex
DECISION NO.: MA75-2134 DATE: Date of Publication
Supersedes Decision No. MA75-2073, dated May 2, 1975 in 40 FR 19340
DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and highway construction and marine construction.

9-MASS-1-2-3-E (1-6)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	9.66	.55	.50		.02
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; STONEMASONS:					
Ashland, Framingham, Holliston, Hopkinton, Hudson, Sherborn & Stow	9.65	1.00	.70		.05
Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, N. Acton, Pepperell, Shirley, S. Acton, Tewksbury, Townsend, Tyngsboro, W. Acton, Westford, & Willington	10.00	.65	.70		.05
Newton	9.85	.60	.90		.05
Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Wayland, Weston, Winchester, & Woburn	10.10	.75	.50		.05
Arlington, Cambridge, Everett, Malden, Melford, Melrose, & Somerville	9.75	.70	.90		.05
Reading, N. Reading, & Wakefield	9.60	.70	1.05		.05
CARPENTERS: SOFT FLOOR LAYERS:					
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Sherborn, & Stow	9.70	.60	.65		.07
Remainder of County	10.00	.60	.65		.07
CEMENT MASONS:					
Bedford, Burlington, Lowell, Tyngsboro, & Westford	8.60	.55			
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Wilmington, Winchester & Woburn	10.20	.75	.45		.07
Reading, N. Reading	8.05	.385	.30		
Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Tewksbury, Acton, Ashby, Ayer, Boxboro, Groton, Littleton, N. Acton, Pepperell, Shirley, S. Acton, Townsend, W. Acton	9.45	.65	.70		.05

DECISION NO. MA75-2134

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Cement masons (Cont.)					
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborne, Stow	$8.95	1.00	.70		.05
Newton	9.15	.60	.90		.05
Belmont, Concord, Lexington, Sudbury, Waltham, Watertown, Wayland, and Weston	9.40	.75	.50		.05
Electricians:					
Bedford, Billerica, Roxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, and Wilmington	9.79	.35	1%+.20		.02
Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirley, & Townsend:					
commercial	10.05	.45	1%+.35		.02
residential	5.20	.45	1%+.25		.02
Ashland, Hopkinton, Hudson, Marlboro, Stow	10.13	.51	2½%+.24		.01
N.Reading	9.72	.25	1%+.20		.02
Remainder of County (commercial)	10.10	.50	1%+.95		.05
Residential	5.25	.35	1%+.95		.05
Elevator constructors	10.665	.495	.32	4%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a+b	.02
Elevator constructors' helpers(prob)	50%JR	.495	.32	4%+a+b	.02
Glaziers	9.20	.45	.66		.03
Ironworkers	9.29	.55	1.40		.06
Laborers (Building):					
Laborers; carpenter tenders; cement finisher tenders; wreckers	7.50	.50	.45		.10
Jackhammer ops; pavement breakers; vacuum drills, asphalt rakers, carbide core drilling machine; chain saw ops; pipelayers; barco type jumping tampers; laser beam ops; concrete pump ops; mason tenders; mortar mixers; ride-on motorized buggy	7.75	.50	.45		.10
Air track ops; block pavers; rammers; curb setters	8.00	.50	.45		.10
Blasterers; powdermen	8.25	.50	.45		.10
Open air caisson, cylindrical work and boring crew:					
Laborer and top man	7.50	.50	.45		.10
Helper	7.62	.50	.45		.10
Bottom man	8.25	.50	.45		.10
Driller	8.37	.50	.45		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 9.25	.45	.55		
LEADBURNERS	9.75	.35		c	.01
LINE CONSTRUCTION:					
Linemen	11.54	.45	1%	d	3/Bof1%
Equipment operator	10.85	.45	1%	d	3/Bof1%
Driver groundman	8.68	.45	1%	d	3/Bof1%
Groundman	7.38	.45	1%	d	3/Bof1%
MARBLE SETTERS: Terrazzo workers	9.05	.70	.80		
MILLWRIGHTS	9.93	.60	.65		.07
PAINTERS:					
Arlington, Belmont, Cambridge, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester, Woburn, Reading, N. Reading					
New Construction					
Brush; Taper	9.46	.72	.85		.04
Sandblasting spray	10.46	.72	.85		.04
Steel	11.58	.72	.85		.04
Repaint; Alterations; Residential					
Brush	8.61	.72	.85		.04
Sandblasting, spray	9.61	.72	.85		.04
Steel	11.58	.72	.85		.04
Ashby, Ayer, Groton, Pepperell, Shirley, & Townsend					
Brush	8.98	.75	.50		.02
Sandblasting; Spray	9.98	.75	.50		.02
Steel	11.10	.75	.50		.02
Repaint	8.01	.75	.50		.02
Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Little, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington					
Brush; Taping;Paperhangers	8.45	.48	.38		.02
Spray	9.20	.48	.38		.02
Steel	9.25	.48	.38		.02
Repaint	7.27	.48	.38		.02

DECISION NO. NA75-2124

Painters (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
All the Newtons, Acton, Ashland, Boxboro, Concord, Framingham, Hollisten, Hopkinton, Hudson, Lexington, Lincoln, Marlboro, Maynard, Natick Sherborn, Stow, Sudbury, Waltham, Watertown, Wayland, Westboro, & Weston					
Brush	$ 7.85	.35	.35		.06
Sandblasters; Spray	8.80	.35	.35		.06
Steel	8.10	.35	.35		.06
Piledrivermen	9.50	.50	.50		
Plasterers:					
Arlington, Cambridge, Everett, Malden, Medford, Somerville, Stoneham, Wakefield, Winchester & Woburn	8.55	.45	1.23		.02
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, Stow	8.95	1.00	.70		.03
Acton, Ashby, Ayer, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, N. Acton, Pepperell, Shirley, S. Acton, Tewsbury, Townsend, W. Acton	9.45	.60	.60		.05
Newton	9.15	.60	.90		.05
Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland, & Weston	9.40	.75	.50		.05
Bedford, Burlington, Lowell, Tyngsboro & Westford	8.60	.55			
N. Reading, Reading	8.05	.385	.30		
Plasterers' Tenders	7.25	.50	.45		.10
Plumbers:					
Acton, Ayer (except portion lying west of the Greenville Branch of the Boston & Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewsbury, Tyngsboro, Westford, & Wilmington	10.02	.50	.40		.02

DECISION NO. MA75-2124,

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Ashby, Ayer (portion lying West of the Greenville Branch of the Boston & Main RR), Ft. Devens, Groton, Shirley & Townsend	$ 9.20	.30	.40	4%	.05
Ashland, Belmont, Concord, Framingham, Holliston, Hopkinton, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland & Weston	10.67	.65	.65		.05
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, N. Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester, & Woburn	10.25	.70	.60		.03
Roofers	9.20	.55	.80		.05
Sheet Metal Workers	9.63	.71	.75		.06
Sprinkler fitters		.50			.08
Steamfitters:					
Acton, Arlington, Cambridge, Everett,, Malden, Medford, Melrose, Newton, N. Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester, & Woburn	10.30	.66	.85		.05
Ayer (except portion lysing west of the Greenbille Branch of the Boston & Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford, & Wilmington	10.02	.50			.02
Ashby, Ayer (portion lying west of the Greenville Branch of the Boston & Main RR), Ft. Devens, Shirley, & Townsend	9.20	.30	.40	4%	.05
Remainder of County	9.77	.53	.55		.05
Terrazzo workers' helpers	8.65	.60	.25		.05
Tile setters (except cities & towns of Acton, Ashby, Ayer, Boxboro, Dunstable, E. Pepperell, Ft. Devens, Groton, Littleton, N. Acton, N. Pepperell, Pepperell, Shirley, S. Acton, Townsend & W. Acton	9.05	.70	.80		

DECISION NO. MA75-2124

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Tile Setters(Acton, Ashby, Ayer, Boxboro, Dunstable, E. Pepperell, Ft. Devens, Groton, Littleton, N. Acton, N. Pepperell, Pepperell, Shirley, S. Acton, Townsend, & W. Acton)	9.45	.60	.60		.05

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F- Chirstmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. 6 paid holidays: A through F

c. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked at least 45 full days furing the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. 7 paid holidays: A through F, & Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

e. Employer pays $5.00 per day extra above the brush rate.

MASS-1 - 2-3 L.

HEAVY & HIGHWAY CONSTRUCTION

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Class I	$7.50	.50	.45		.10
Class II	7.75	.50	.45		.10
Class III	8.00	.50	.45		.10
Class IV	8.25	.50	.45		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

BUILDING CONSTRUCTION

Power Equipment Operators:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$10.46	.75	.80	a	.02
CLASS II	10.34	.75	.80	a	.02
CLASS III	8.71	.75	.80	a	.02
CLASS IV	9.52	.75	.80	a	.02
CLASS V	7.69	.75	.80	a	.02
CLASS VI	8.17	.75	.80	a	.02

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single disphragm pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

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, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

MASS-1-PDO-2-3 F

HEAVY & HIGHWAY CONSTRUCTION:

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1	$10.46	.75	.80	a	.02
Hourly premium for boom lenghts including Jib					
Over 150 feet + $ .45					
Over 185 feet + .60					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
Group 2	10.34	.75	.80	a	.02
Group 3	8.71	.75	.80	a	.02
Group 4	9.52	.75	.80	a	.02
Group 5	7.65	.75	.80	a	.02
Group 6	8.17	.75	.80	a	.02

FOOTNOTE: a. 10 Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day, & Patriots Day

CLASSIFICATIONS:

GROUP 1
Power Shovels, Cranes, Truck Cranes, Derricks, Pile Drivers, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines, Uke Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable Ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Post Hole Diggers, Asphalt Plant on Job Sute, Concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozers, Tractors, Mechanic Hairtenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3
Pump (1-3 groups), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphoon-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
Assistant Engineers (Firemen)

GROUP 5
Oilers (other than truck cranes & gradalls)

GROUP 6
Oilers (on truck cranes & gradalls)

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-2-3 D

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tiremen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vactuol, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.85	.545	.575	a+b	
Trailers for earth moving equipment, (double bookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

CONGRESSIONAL DECISION

STATE: Massachusetts COUNTY: Norfolk
DECISION NO.: MA75-2125 DATE: Date of Publication
Supersedes Decision No. MA75-2074 dated May 9, 1975 in 40 FR 20586
DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and highway construction.

11-MASS-1-2-3-V (1-3)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bellingham, Franklin, Plainville & Wrentham	$ 9.32	.71	.83		
Remainder of County	9.65	.65	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS: Cement masons; Plasterers; & Stonemasons:					
Dover, Needham & Wellesley	9.85	.60	.90		.05
Medfield, Medway & Mills	9.65	1.00	.70		.05
Avon, Holbrook, Randolph & Stoughton	9.55	.75	1.05		.05
Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood & Wrentham	9.20	.80	.65		.05
Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth, & Weymouth	9.90	.75	.70		.05
BRICKLAYERS: Stonemasons:					
Brookline & Milton	9.75	.70	.90		.05
CARPENTERS: Soft Floor Layers:					
Quincy, Brookline, Dedham, & Milton	10.00	.60	.65		.07
Avon, Holbrook, Randolph & Stoughton	8.75	.50	.50		.02
Bellingham, Franklin, Medfield, Medway & Mills	8.93	.60	.50		.07
Remainder of County	10.00	.60	.65		.07
CEMENT MASONS: Brookline & Milton	10.20	.75	.45		.07
ELECTRICIANS:					
Avon, Holbrook, Randolph & Stoughton					
Elec. contracts under $20,000	9.15	4%	5%		.5%
Elec. contracts $20,000 or over	11.05	4%	5%		.5%
Residential	6.00	.35	5%		.5%
Plainville	8.80	.38	1%+.50		.02
Residential	5.75	.38	1%		.02
Remainder of County	10.75	.50	1%+.55		.05
Residential	5.25	.35	1%+.95		.05
ELEVATOR CONSTRUCTORS	10.105	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.445	.29	3%+a+b	.02
GLAZIERS: S. Bellingham	8.68	.47	.40+.25		.01
Remainder of County	9.20	.45	.56		.03
IRONWORKERS: Plainville	9.43	.55	1.40		.05
Remainder of County	9.93	.55	1.40		.06
LABORERS (BUILDING)					
Laborers, carpenter tenders, cement finisher tender, wrecking laborers	$ 7.50	.50	.45		.10
Jackhammer op., pavement breaker, wagon drills, asphalt rakers, carbide core drilling mach., chain saw op., pipelayer, barco type jumping tamper, laser beam concrete pump, mason tender, mortar mixer, ride-on buggy	7.75	.50	.45		.10
Air track, block paver, rammer, curb setter	8.00	.50	.45		.10
Blasters, powderman	8.25	.50	.45		.10
Open air caisson, cylindrical work & boring crew:					
Laborer, top man	7.50	.50	.45		.10
Helper	7.62	.50	.45		.10
Bottom man	8.25	.50	.45		.10
Driller	8.37	.50	.45		.10
LATHERS	9.25	.45	.55		
LEADburners	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	11.54	.45	1%	d	3/8of1%
Equipment Operator	10.85	.45	1%	d	3/8of1%
Driver Groundman	8.68	.45	1%	d	3/8of1%
Groundman	7.38	.45	1%	d	3/8of1%
MARBLE SETTERS, Terrazzo workers	9.05	.70	.80		
MARBLE SETTERS' HELPERS	7.94	.40	.25		
MILLWRIGHTS	9.93	.60	.65		.07
PAINTERS:					
Bellingham:					
Brush	8.63	.55	.55		
Steel & Steam cleaning	8.90	.55	.55		
Spray & Potter	9.65	.55	.55		
Dover, Medfield, Medway, Mills, Needham, & Wellesley					
Brush	7.85	.35	.35		
Steel	8.10	.35	.35		
Spray	8.80	.35	.35		

MA75-2125

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Painters (Cont'd)					
Remainder of County:					
New Construction					
Brush, taper	$ 9.46	.72	.85		.04
Steel	11.58	.72	.85		.04
Spray	10.46	.72	.85		.04
Repaint, Alterations & Residential					
Brush	8.61	.72	.85		.04
Steel	11.58	.72	.85		.04
Spray	9.61	.72	.85		.04
Piledrivermen	9.50	.50	.50		
Plasterers: Brookline & Milton	8.55	.45	1.25		.02
Plasterers' Tenders:					
Avon, Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxboro, Franklin, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood Plainville, Quincy, Randolph, Sharon, S. Bellingham, Stoughton, Walpole, Wellisley, Westwood, Weymouth, & Wrentham	7.25	.50	.45		.10
Plumbers; Steamfitters:					
Avon, Holbrook, Randolph, & Stoughton	9.50	.45	.70		.05
Dover, Medfield, Medway, Wellesley	10.67	.68	.65		.05
Plumbers: Gasfitters:					
Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Weymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth, & Wrentham	10.25	.70	.60		.03
Roofers	9.20	.55	.80		.05
Sheet Metal workers	9.63	.71	.75		.06
Sprinkler fitters	9.63	.50	.70		.08
Steamfitters:					
Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Walpole, Westwood & Wrentham	10.36	.66	.85		.05

MA75-2125

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Terrazzo Workers' Helpers	$8.65	.60	.25		.05
Tile Setters	9.05	.70	.80		
Tile Setters' Helpers	7.95	.40	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C- Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employ contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months ro 5 years of service as Vacation Pay credit.

b. 6 Paid Holidays: A through F.

c. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.

d. 7 Paid Holidays: A through F, & Bunker Hill Day provided the employee has been employed 10 working days prior to the listed holidays.

e. Employer pays $5.00 per day extra above the brush rate.

MASS-1 - 2-3 L

HEAVY & HIGHWAY CONSTRUCTION

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apprentice Tr.
Class I	$7.50	.50	.45		.10
Class II	7.75	.50	.45		.10
Class III	8.00	.50	.45		.10
Class IV	8.45	.50	.45		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, lazer boom op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powderman

BUILDING CONSTRUCTION

Power Equipment Operators:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apprentice Tr.
CLASS I	$10.46	.75	.80	a	.02
CLASS II	10.34	.75	.80	a	.02
CLASS III	8.71	.75	.80	a	.02
CLASS IV	9.52	.75	.80	a	.02
CLASS V	7.69	.75	.80	a	.02
CLASS VI	8.17	.75	.80	a	.02

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

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, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

MASS-1-PED-2-3 F

HEAVY & HIGHWAY CONSTRUCTION:

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group 1	$10.46	.75	.80	a	.02
Hourly premium for boom lengths including Jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
Group 2	10.34	.75	.80	a	.02
Group 3	8.71	.75	.80	a	.02
Group 4	9.52	.75	.80	a	.02
Group 5	7.69	.75	.80	a	.02
Group 6	8.17	.75	.80	a	.02

FOOTNOTE: a. 10 Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day, & Patriots Day.

CLASSIFICATIONS:

GROUP 1
Power Shovels, Cranes, Truck Cranes, Derricks, Pile Drivers, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines, Uke Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable Ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Part Hole Diggers, Asphalt Plant on Job Sute, Concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
Sonic or Vibratory Hammers, Graders, Scrapers, Tandom Scrapers, Bulldozers, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3
Pump (1-3 groupd), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
Assistant Engineers (Firemen)

GROUP 5
Oilers (other than truck cranes & gradalls)

GROUP 6
Oilers (on truck cranes & gradalls)

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-2-3 D

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.14	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tirmen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, wrecker, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.85	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTY: Plymouth
DECISION NO.: MA75-2126
DATE: Date of Publication
Supersedes Decision No. MA75-2075, dated May 9, 1975 in 40 FR 20590
DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and Highway Construction

12-MASS-1-2-3-Y

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Lakeville, Mattapoisett, Middleboro, Rochester, & Wareham	$ 9.32	.71	.83		
Remainder of County	9.66	.65			.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS: Cement Masons & Stonemasons:					
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Norwell, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater, & Whitman	9.55	.75	1.05		.05
BRICKLAYERS: Cement masons; Plasterers & Stonemasons					
Hingham, Hull, Scituate, & the Islands of Quincy Bay	9.90	.75	.70		.05
Lakeville	9.20	.80	.65		.05
Marion, Mattapoisett, Rochester & Wareham	9.75	.80	.80		.05
CARPENTERS: Soft Floor Layers: Duxbury, Hanover, Hingham, Hull, Marshfield, Norwell, Pembroke, Rockland, & Scituate.	10.00	.60	.65		.07
Abington, Bridgewater, Brockton, Carver, E. Bridgewater, Halifax Hanson, Kingston, Plymouth, Plympton, W. Bridgewater, & Whitman, Lakeville, & Middleboro, Marion, Mattapoisett, Rochester, & Wareham	9.30	.50	.65		.02
CARPENTERS: Soft Floor Layers:					
All work over $1½ Million including Residential	9.30	.50	.65		.02
Work from $1 million-1½ million	8.83	.50	.65		.02
Work from $500,000-1 million	8.37	.50	.65		.02
Work from $200,000-500,000	7.44	.50	.65		.02
Residential up to 4 stories & commercial up to $200,000	6.97	.50	.65		.02
ELECTRICIANS:					
Hingham, Hull	10.10	.50	1%+1.35		.05
Residential	5.25	.35	1%+.95		.05
Mattapoisett, Rochester & Wareham					
Electrical contracts $12,000 or over	9.75	.40	1%+.50		a

Page 2

DECISION NO. MA75-2126

ELECTRICIANS (CONT'D) Mattapoisett Rochester & Wareham	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.
Electrical contracts under $12,000	$ 7.80	.40	1%+.50		a
Residential	5.70	.40	1%+.50		a
Lakeville & Middleboro	10.20	.55	1%		.1%
Residential	6.50	.50	1%		.1%
Remainder of County:					
Electrical contracts $20,000 or more	11.05	4%	5%		.5%
Electrical contracts under $20,000	9.15	4%	5%		.5%
Residential	6.00	.35	5%		.5%
ELEVATOR CONSTRUCTORS	10.105	.445	.29	3%+$.80	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+$.80	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.445	.29	3%+$.80	.02
GLAZIERS:					
Carver, Lakeville, Middleboro, Marion, Mattapoisett, Rochester, Wareham	8.68	.47	.40+.25		.01
Remainder of County	9.20	.45	.56		.03
IRONWORKERS:					
Bridgewater, Brockton, Hanover, Hanson, Marfield, Norwell, Pembroke, Rockland, Scituate, W. Bridgewater, & Whitman	9.29	.55	1.40		.06
Lakeville, Marion, Mattapoisett, Middleboro, Rochester, & Wareham	8.43	.55	1.40		.05
LABORERS (Building):					
Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers	7.50	.50	.45		.10
Jackhammer op; pavement breakers; wagon drills; asphalt rakers; carbide core drilling machine; chain saw ops; pipelayer; barco-type jumping tampers; laser beam ops; concrete pump ops; mason tenders; mortar mixers; ride-on motorized buggy ops.	7.75	.50	.45		.10
Air track; block pavers; rammers; curb setters	8.00	.50	.45		.10
Balsters; powdermen	8.25	.50	.45		.10
Open air caisson; Cylindrical work & boring crew:					

DECISION NO. MA75-2126

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS (CONT'D)					
Laborer; Top man	$ 7.50	.50	.45		.10
Helper	7.62	.50	.45		.10
Bottom man	8.25	.50	.45		.10
Driller	8.37	.50	.45		.10
LATHERS	9.65	.45	.55		
LEADburners	8.75	.30		d	.01
LINE CONSTRUCTION:					
Lineman	11.54	.45		e	3/8of1%
Equipment Operators	10.85	.45		e	3/8of1%
Groundman	7.38	.45		e	3/8of1%
Driver Groundman	8.68	.45		e	3/8of1%
MARBLE SETTERS: TERRAZZO WORKERS	9.05	.70	.80		
MARBLE SETTERS' HELPERS	7.94	.40	.25		
MILLWRIGHTS	9.30	.60	.65		.07
PAINTERS:					
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater, & Whitman:					
Brush; Taper (New Construction)	9.46	.72	.85		.04
Steel (New Construction)	11.58	.72	.85		.04
Spray (New Construction)	10.46	.72	.85		.04
Brush (repaint, alterations, residential)	8.61	.72	.85		.04
Steel (repaint,alterations, residential)	11.58	.72	.85		.04
Spray (repaint, alterations, residential)	9.61	.72	.85		.04
Marion, Mattapoisett, Rochester & Wareham:					
Brush; Rollers; Taping	8.30	.60	.20		
Steel 1' to 50' & Spray	9.30	.60	.20		
PILEDRIVERMEN:					
Marion, Mattapoisett, Rochester & Wareham	8.75	.50	.50		.02
Remainder fo County	9.50	.50	.50		
PLASTERERS:					
Norwell	8.55	.45	1.25		.02

DECISION NO. MA75-2126

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PLASTERERS (CONT'D)					
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston; Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater & Whitman	$ 8.45	.55	.45		.02
PLASTERERS' TENDERS:					
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfeild, Norwell, Pembroke, Plymouth, Plympton, Rockland, Sciotuate, W. Bridgewater, & Whitman	7.25	.50	.45		.10
PLUMBERS:					
Marion, Mattapoisett, Rochester, & Wareham	9.15	.76	1.16		.15
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater, & Whitman	9.50	.45	.70		.05
PLUMBERS; Gasfitters:					
Hingham, Hull, & Scituate	10.25	.70	.60		.03
PLUMBERS; Steamfitters:					
Lakeville, Middleboro	8.97	.60	.73		
ROOFERS:					
Abington, Bridgewater, E. Bridgewater, Halifax, Hanover, Hanson, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, & W. Bridgewater	9.20	.55	.80		.05
Brockton	8.00				
Carver, Lakeville, Marion, Mattapoisett, Middleboro, Rochester, & Wareham:					
Roofers; Kettlemen	8.80	.50	.05		
Helpers, Class "A"	8.10	.50	.05		
SHEET METAL WORKERS:					
Marion, Mattapoisett, Rochester & Wareham	9.48	.45	.45		
Remainder of County	9.63	.71	.75		.06

DECISION NO. MA75-2126

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
SPRINKLER FITTERS	$10.53	.50	.80		.08
STEAMFITTER:					
Marshfield	10.36	.51	.65		.05
TERRAZZO WORKERS' HELPERS	8.65	.60	.25		.05
TILE SETTERS	9.05	.70	.80		
TILE SETTERS' HELPERS	7.94	.40	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contribution of $1.00 per journeyman electricians per week

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit

c. 6 paid holidays: A through F

d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked at leat 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday

e. 7 paid holidays: A through F, and Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

MASS-1 - 2-3 h-

HEAVY & HIGHWAY CONSTRUCTION

LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class I	$7.50	.50	.45		.10
Class II	7.75	.50	.45		.10
Class III	8.00	.50	.45		.10
Class IV	8.25	.50	.45		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., vapor drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - I - TD - 1-2-3 B

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pension	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tirrman	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vochaul, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.85	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calender week in which the holiday falls.

BUILDING CONSTRUCTION

Power Equipment Operators:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pension	Vacation	App. Tr.
CLASS I	$10.66	.75	.80	a	.02
CLASS II	10.34	.75	.80	a	.02
CLASS III	8.71	.75	.80	a	.02
CLASS IV	9.52	.75	.80	a	.02
CLASS V	7.69	.75	.80	a	.02
CLASS VI	8.17	.75	.80	a	.02

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumprete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants

CLASS IV Assistant engineers (Firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

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, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

MASS-1-PED-2-3 F

HEAVY & HIGHWAY CONSTRUCTION: POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group 1	$10.46	.75	.80	a	.02
Hourly premium for boom lenghts including Jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
Group 2	10.34	.75	.80	a	.02
Group 3	8.71	.75	.80	a	.02
Group 4	9.52	.75	.80	a	.02
Group 5	7.65	.75	.80	a	.02
Group 6	8.17	.75	.80	a	.02

FOOTNOTE: a. 10 Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day, & Patriots Day.

CLASSIFICATIONS:

GROUP 1
Power Shovels, Cranes, Truck Cranes, Derricks, Pile Drivers, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines, Tire Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable Ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Post Hole Diggers, Asphalt Plant on Job Site, Concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozers, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Trucks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3
Pump (1-3 groups), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
Assistant Engineers (Firemen)

GROUP 5
Oilers (other than truck cranes & gradalls)

GROUP 6
Oilers (on truck cranes & gradalls)

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Worcester
DECISION NO.: MA75-2128 DATE: Date of Publication
Supersedes Decision No. MA75-2077, dated May 16, 1975 in 40 FR 21660
DESCRIPTION OF WORK: Building Construction (including residential), Heavy and Highway Construction.

1½-MASS-1-2-3-b

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$10.12	.57	.65		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; Cement masons; Plasterers; & Stonemasons:					
Warren	9.55	.55	.80		.03
Hopedale, Milford, & Southboro	9.65	1.00	.70		.05
Ashburnham, Athol, E. Templeton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster, & Winchendon	9.45	.60	.60		.05
Remainder of County	9.00	.70	.60		.02
CARPENTERS; Soft floor layers: Ashburnham, Athol, E. Gardner, E. Templeton, Fitchburg, Gardner, Harvard, Leominster, Lunenburg, N. Leominster, Petersham, Phillipston, Royalston, S. Ashburnham, S. Royalston, Templeton, Westminster, & Winchendon	10.00	.60	.65		.07
Berlin, Bolton, Clinton, Northboro, Southboro, & Westboro	9.70	.60	.65		.07
Blackstone, Millville	8.76	.60	.60		
Hopedale, Mendon, Milford, Upton, & W. Upton	9.73	.60	.65		.07
Hardwick, Warren, & W. Brookfield	9.15		.65		.02
Remainder of County	10.10	.50	.65		.07
ELECTRICIANS: Warren	8.29	.48	1%+.15	.43	a
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster Lunenburg, Phillipston, Westminster, & Winchendon	10.05	.45	1%+.35		.02
Residential	6.40	.45	1%+.35		.02
Remainder of County	10.13	.51	3%+.24		.01
ELEVATOR CONSTRUCTORS	9.49	.445	.29	3%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

DECISION NO. MA75-2128

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GLAZIERS					
East Douglas	$ 8.68	.47	.40+.25		.01
Remainder of County	9.20	.45	.56		.03
IRONWORKERS:					
Blackstone	8.59	.50	1.40		.03
Remainder of County	9.29	.55	1.40		.06
LABORERS (BUILDING):					
Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers	7.50	.50	.45		.10
Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain Saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy	7.75	.50	.45		.10
Air track; Block pavers; Rammers; Curb setters	8.00	.50	.45		.10
Blasters' Powdermen	8.25	.50	.45		.10
Open air caisson; Cyindrical work & boring crew:					
Laborer; Topman	7.50	.50	.45		.10
Helper	7.62	.50	.45		.10
Bottom man	8.25	.50	.45		.10
Driller	8.37	.50	.45		.10
LATHERS:					
Sturbridge, & Warren	8.45	.45	.25		
Clinton, Lancaster, Leominster, Southboro, & Uxbridge	8.72	1.35	.25		.01
Harvard and Lunenburg	9.25	.45	.55		
LEADBURNERS	9.25	.35		d	.01
LINE CONSTRUCTION:					
Linemen	11.54	.46	1%	e	3/8of1%
Equipment operator	10.85	.46	1%	e	3/8of1%
Driver groundman	8.68	.46	1%	e	3/8of1%
Groundman	7.38	.46	1%	e	3/8of1%

DECISION NO. MA75-2128

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
MARBLE SETTERS:					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, Westminster	$ 9.05	.70	.80		
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Grafton, Hardwick, Holden, Hopedale, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro, & Worcester	9.00	.70	.60		.02
Warren	9.55	.55	.55		.03
MARBLE SETTERS' HELPERS	7.94	.60	.25		
MILLWRIGHTS	9.93	.60	.65		.07
PAINTERS:					
Warren:					
Brush	8.32	.50	.35		.03
Spray	11.093	.6667	.4447		.04
Swing stage under 40 & steel	8.507	.50	.35		.03
Swing stage over 40 & steel	8.87	.50	.35		.03
Holedale, Mendon, Milford, Southboro, Upton & Westboro:					
Brush (New Construction)	7.85	.35	.35		.06
Brush (Repaint)	7.30	.35	.35		.06
Steel (New Construction)	8.10	.35	.35		.06
Steel (Repaint)	7.55	.35	.35		.06
Spray (New Construction)	8.80	.35	.35		.06
Spray (Repaint)	8.25	.35	.35		.06
Remainder of County:					
Brush	9.78	.75	.50		.02
Steel	11.90	.75	.50		.02
Sandblasting; Spray	10.78	.75	.50		.02
Repaint	8.01	.75	.50		.02
PILEDRIVERMEN	9.50	.50	.50		
PIPEFITTERS: Holedale, & Southboro	9.97	.53	.55		.05
Remainder of County	10.18	.45	.40		.05
Pondville	10.36	.66	.85		.05

DECISION NO. MA75-2128

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
PLASTERERS' TENDERS:					
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, E. Brookfield, Grafton, Hardwick, Holden, Hopedale, Leicester, Mendon, Milford, Millbury, New Braintree, Northboro, Northbridge, W. Brookfield, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southboro, Southbridge, Spencer, Sterling, Sturbridge, Sutton, Upton, Uxbridge, Warren, Webster, Westboro, W. Boylston, W. Brookfield, Whitinsville, and Worcester Counties	$7.25	.50	.45		.10
PLUMBERS:					
Hopedale and Southboro Counties	10.67	.68	.65		.05
Ashburnham, Athol, Bolton, Fitchburg, Garden, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Royalston, Templeton, Westminster and Winchendon Cos.	9.20	.30	.40	4%	.05
Remainder of Counties	10.33	.65	.45		.05
ROOFERS	10.43	.27			
SHEET METAL WORKERS	9.95	.55	.50		.05
SPRINKLER FITTERS:	10.53	.50	.80		.08

DECISION NO. MA75-2128

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
TERRAZZO WORKERS and TILE SETTERS:					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling and Westminster Counties	$9.05	.70	.80		
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro and Worcester Counties	9.00	.70	.60		.02
Warren County	9.55	.55	.55		.03
Hubbardston, Gardner, Phillipston, Petersham, Athol, Royalston, Winchenden (only Tile Setters)	9.45	.60	.60		.04
TERRAZZO WORKERS' HELPERS	8.65	.60	.25		.05
TILE SETTERS' HELPERS	7.94	.40	.25		.0

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. $.30 per man per week

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. 6 Paid Holidays: A through F.

d. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

e. 7 Paid Holidays: A through F and Bunker Hill Day, provided the employee has worked 10 days prior to the listed holidays.

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-2-3 D

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.29	.545	.575	a+b	
Three axle equipment and tiremen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vactuol, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.85	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

BRANT & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class I	$7.50	.50	.45		.10
Class II	7.75	.50	.45		.10
Class III	8.00	.50	.45		.10
Class IV	8.25	.50	.45		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., well drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

BUILDING CONSTRUCTION:
COUNTIES: Worcester, Boylston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, E.Brookfield, N.Brookfield, Southbridge, Barre, Templeton, Ashburnham, Sturbridge, W.Brookfield, & Warren:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.35	.60	.75	a	.05
CLASS II	9.15	.60	.75	a	.05
CLASS III	8.95	.60	.75	a	.05
CLASS IV	8.58	.60	.75	a	.05
CLASS V	7.90	.60	.75	a	.05
CLASS VI	7.46	.60	.75	a	.05
CLASS VII	6.72	.60	.75	a	.05

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bobcohoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i. e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console.

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (struck load)-self propelled or tractor drawn, Tire-man, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumprete Machines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton.

CLASS IV Asphalt Roller-under 10 ton

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet.

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day.

HEAVY & HIGHWAY CONSTRUCTION:
POWER EQUIPMENT OPERATORS:
Sturbridge, Brookfield, W.Brookfield, Oakham, Barre, Templeton, Winchendon, Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, W.Brookfield, and Warren

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.35	.60	.75	a	.05
CLASS II	9.15	.60	.75	a	.05
CLASS III	8.95	.60	.75	a	.05
CLASS IV	8.58	.60	.75	a	.05
CLASS V	7.90	.60	.75	a	.05
CLASS VI	7.45	.60	.75	a	.05
CLASS VII	6.72	.69	.75	a	.05

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loaders-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Grader-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over,, Sonic Hammer Console.

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Firemen, Pumps-16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant.

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat.

FOOTNOTES:

a. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Power Equipment Operators: Remainder of County					
CLASS I	$10.46	.75	.80	a	.02
CLASS II	10.34	.75	.80	a	.02
CLASS III	8.71	.75	.80	a	.02
CLASS IV	9.52	.75	.80	a	.02
CLASS V	7.69	.75	.80	a	.02
CLASS VI	8.17	.75	.80	a	.02

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tamppers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, staticnary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

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, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

MASS-1-PEO-2-3 F

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
HEAVY & HIGHWAY CONSTRUCTION:					
POWER EQUIPMENT OPERATORS: Remainder of County					
Group 1	$10.46	.75	.80	a	.02
Hourly premium for boom lenghts including Jib					
Over 150 feet + $ .65					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
Group 2	10.34	.75	.80	a	.02
Group 3	8.71	.75	.80	a	.02
Group 4	9.52	.75	.80	a	.02
Group 5	7.65	.75	.80	a	.02
Group 6	8.17	.75	.80	a	.02

FOOTNOTE: a. 10 Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day, & Patriots Day

CLASSIFICATIONS:

GROUP 1
Power Shovels, Cranes, Trunk Cranes, Derricks, Pile Drivers, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines, Use Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable Ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Post Hole Diggers, Asphalt Plant on Job Site, Concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozers, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3
Pump (1-3 groupd), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
Assistant Engineers (Firemen)

GROUP 5
Oilers (other than truck cranes & gradalls)

GROUP 6
Oilers (on truck cranes & gradalls)

SUPERSEDEAS DECISION

STATE: Michigan

COUNTIES: Macomb, Oakland, Washtenaw and Wayne

DECISION NO.: MI75-2129

DATE: Date of Publication

Supersedes Decision No. MI75-2102, dated August 8, 1975 in 40 FR 33639

DESCRIPTION OF WORK: Building (including residential) and Heavy (excluding Bridge, Airport and Sewer) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS:					
Township of Bridgewater, Dexter, Freedom, Lima, Lyndon, Manchester Sharon & Sylvan in Washtenaw Co.	$ 9.31	.66	.95		.02
Remaining Counties and the remainder of Washtenaw County	10.77	1.24	1.13		
BOILERMAKERS	10.07	.70	1.00	1.50	.01
BRICKLAYERS:					
Washtenaw County	11.51		.35		
Remaining Counties	10.19	.70	8%+.10	11%	.05
CARPENTERS:					
Washtenaw County	9.76	.50	.40		.01
Remaining Counties	9.9166	.60	9%	11%	.02
CEMENT MASONS:					
Washtenaw County	11.21		.35		
Remaining Counties	9.288+	.70	10%	11%	.02
ELECTRICIANS:					
Washtenaw County	10.03	.50	7%+.55	10%	2%
Remaining Counties	10.85	1.48	7%+.90		.06
ELEVATOR CONSTRUCTORS:					
Washtenaw County:					
Elevator Constructors	10.64	.445	.29	3%	.02
Elevator Constructors' Helpers	7.45	.445	.29	3%	.02
Elevator Constructors' Helpers (Prob)	5.32				
Remaining Counties:					
Elevator Constructors	10.52	.445	.29	3%	.02
Elevator Constructors' Helpers	7.36	.445	.29	3%	.02
Elevator Constructors' Helpers (Prob.)	5.26				
GLAZIERS	9.50	.50	.65		
IRONWORKERS:					
Structural & Ornamental	9.75	8%	14%	17%	.07
Reinforcing	9.0625	.85	15%	15%	.03
LATHERS:					
Washtenaw County	7.85	.54	.10	.50	.01
Remaining Counties	9.22	.77	.58		
MARBLE MASONS:					
Washtenaw County	11.28		.35		
Remaining Counties					
Marble Mason	10.28	.45	.60	.75	
Marble Mason Helper	8.75	.45	.60	.75	

DECISION NO. MI75-2129

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Washtenaw County					
Brush	9.72	.43	.20		.02
Spray	10.47	.43	.20		.02
Taper	10.12	.43	.20		.02
Remaining Counties					
Brush	9.30	.75	.96	.90	.05
Spray					
To 40' height	9.80	.75	.96	.90	.05
40' height and over	9.925	.76	.96	.90	.05
PLASTERERS:					
Washtenaw County	11.51		.35		
Remaining Counties	10.99	.70	.50		
PLUMBERS: Pipefitters					
Washtenaw County	9.58	.80	.75	1.25	.10
Remaining Counties					
Plumbers	9.17	1.75	1.085	1.34	.005
Pipefitters	9.215	1.65	1.085	1.35	.05
ROOFERS:					
Washtenaw County					
Composition	8.50	.70		1.05	.10
Slate	9.25	.70		1.05	.10
Remaining Counties					
Composition	9.31	.65	.80	1.00	
Slate	10.06	.65	.80	1.00	
SHEET METAL WORKERS	9.32	1.09	.724	11%+.01	.07
SOFT FLOOR LAYERS:					
Washtenaw County	9.76	.50	.40		.01
Remaining Counties	8.92	.65	7%	8%	.03
SOUND & COMMUNICATION WORKERS: (Includes electronic loud-speaking intercommunication systems; public address and sound distribution system; closed circuit television systems; television antenna distribution systems; audible and visual signalling systems; installation of loud speakers)					
Wayne, Oakland & Macomb Counties only	7.18	1.60a	6.00a		

DECISION NO. MI75-2129

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
SPRINKLER FITTERS	$11.00	.60	.70		.055
TILE & TERRAZZO WORKERS:					
Washtenaw County	11.51		.35		
Remaining Counties					
Terrazzo Workers	9.55	.45	.60	.75	
Terrazzo Workers' Helpers	8.24	.35	.40	.65	
Tile Layers	9.86	.45	.60	.75	
TRUCK DRIVERS:					
Pole Trailers; Low Boys; Straddle Carrier; Double Bottoms and Special Load Permits	7.87	17.00a	14.00a		
Semi drivers	7.77	17.00a	14.00a		
All others	7.62	17.00a	14.00a		

FOOTNOTE:
a. Per Week, Per Employee

DECISION NO. MI75-2129

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Washtenaw County					
GROUP 1	$ 7.54	.40	.30	.60	.04
GROUP 2	8.04	.40	.30	.60	.04
GROUP 3	8.16	.40	.30	.60	.04
Remaining Counties					
GROUP 1	7.10	.65	.55	.55	
GROUP 2	7.18	.65	.55	.55	
GROUP 3	7.28	.65	.55	.55	
GROUP 4	7.33	.65	.55	.55	
GROUP 5	7.35	.65	.55	.55	
GROUP 6	7.43	.65	.55	.55	
GROUP 7	7.48	.65	.55	.55	
GROUP 8	7.85	.65	.55	.55	

LABORERS:
Washtenaw County

GROUP 1 All Construction Laborers not specified below
GROUP 2 Mortar Mixers; Material Mixers (hand or machine); Air, Gas, Electric Tool Operators; Power Buggie Operators; Scaffold Builders or Dismantlers; Windlass Operators; Tar and Kettle Operators
GROUP 3 Crock or Pipe Layers; Caisson Workers

Remaining Counties

GROUP 1 All Construction Laborers not specified below
GROUP 2 Mortar Mixers; Scaffold Builders
GROUP 3 Signal Men; Air, gas or Electric Tool Operators; Windlass and Tugger Operator; Jackhammer and Vibrator Operator
GROUP 4 Crock grade man
GROUP 5 Furnace Battery Heater Helpers
GROUP 6 Crock and Pipe Layers
GROUP 7 Caisson Workers
GROUP 8 Lansing Burners; Blasters; Powdermen

DECISION NO. MI75-2129

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
CLASS A	$10.748	.55	.75	10%	.05
CLASS B	10.521	.55	.75	10%	.05
CLASS C	10.293	.55	.75	10%	.05
CLASS D	10.066	.55	.75	10%	.05
CLASS E	9.146	.55	.75	10%	.05
CLASS F	8.585	.55	.75	10%	

CLASS A Engineer when operating crane with boom and jib or leads 220' or longer
CLASS B Engineer when operating crane with boom and jib or leads 140' or longer, up to 220'
CLASS C Regular Crane Operator
CLASS D Regular Engineer
CLASS E Engineer when operating compressor or welding machine
CLASS F Fireman, Oiler

DECISION NO. MI75-2129

POWER EQUIPMENT OPERATORS Steel Erection	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
CLASS A	$ 11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

POWER EQUIPMENT OPERATORS
Steel Erection

CLASS A Engineer when operating combination of boom and jib 220' or longer
CLASS B Engineer when operating combination of boom and jib 140' or longer up to 220'; Tower Crane; Derrick Operator (Where operator's work station is 50' or more above first sub-level)
CLASS C Crane Operator; Job Mechanic
CLASS D Hoisting Operator
CLASS E Compressor Operator
CLASS F Fireman; Oiler

DECISION NO MITS-2129

POWER EQUIPMENT OPERATORS: Underground Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.27	.60	.85	10%	.05
CLASS II	9.15	.60	.85	10%	.05
CLASS III	8.48	.60	.85	10%	.05
CLASS IV	7.96	.60	.85	10%	.05

POWER EQUIPMENT OPERATORS:
Underground Construction

CLASS I Backfiller Tamper; Backhoe; Batch Plant Operator (concrete); Clamshell; Concrete Paver (two drum or larger); Conveyor Loader (Euclid Type); Crane (crawler, truck or piledriving); Dozer (9 ft. blade and over); Dragline; Elevating grader; Endloader (over ½ c.y. capacity); Gradall (and similar type machine); Grader; Mechanic; Power Shovel Roller (asphalt); Scraper (self-propelled or tractor drawn); Side Boom Tractor (type D-4 or equivalent and larger); Slip Form Paver; Slope Paver; Trencher (over 8 ft. digging capacity); Well Drilling Rig

CLASS II Boom Truck (power swing type boom); Crusher; Dozer (less 9 ft. blade); Endloader (1½ cubic yard capacity and smaller); Hoist; Pump (one or more -- 6 in. discharge or larger -- gas or diesel powered or powered by generator of 300 amperes or more - inclusive of generator); Side Boom Tractor (smaller than type D-4 or equivalen); Sweeper (Wayne type and similar equipment); Tractor (pneu-tired, other than backhoe or front-end loader); Trencher (8' digging capacity and smaller)

CLASS III Air Compressors (600 cfm or larger); Air Compressor (2 or more - less than 600 cfm); Boom Truck (non-swinging, non-powered type boom); Concrete Breaker (self-propelled or truck mounted-includes compressor); Concrete Paver (one drum - ½ yard or larger); Elevator (other than passenger); Maintenance Man; Pumps (2 or more 4" up to 6" discharge gas or diesel powered - excluding submersible pumps); Pumprete Machine (and similar equipment); Wagon Drill (Multiple); Welding Machine or Generator (2 or more, 300 amps. or larger - gas or diesel powered)

CLASS IV Boiler; Concrete Saw (40 hp or over); Curing Machine (self-propelled); Farm Tractor (with attachment); Finishing Machine (concrete); Fireman; Hydraulic Pipe Pushing Machine; Mulching Equipment; Oiler; Pumps (2 or more up to 4" discharge if used 3 hours or more per day - gas or diesel powered excluding submersible pumps); Roller (other than asphalt); Stump Remover; Trencher (service) Vibrating Compactor Equipment, Self-propelled (6' wide or over)

DECISION NO MITS-2129

LINE CONSTRUCTION: The Townships of Lyndon, Manchester, Sharon & Sylvan in Washtenaw County	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Lineman; Heavy Equipment Oper.	$ 8.35	.35	3%	a	3%
Cable Splicer	9.11	.35	3%	a	3%
Combination Digger Oper. - Tractor Operator Groundman:					
First Six Months	6.36	.35	3%	a	3%
Over Six Months	6.86	.35	3%	a	3%
Light-Equipment Oper. Groundman; Distribution Line Truck Driver Operator:					
First Six Months	5.54	.35	3%	a	3%
Over Six Months	6.03	.35	3%	a	3%
Combination Winch Truck Driver-Groundman					
First Six Months	5.05	.35	3%	a	3%
Over Six Months	5.76	.35	3%	a	3%
Combination Truck Driver-Groundman	4.88	.35	3%	a	3%
Remaining Counties and remainder of Washtenaw County					
Remaining Counties:					
Lineman	11.38	.88	3%		3%
Cable Splicer	11.87	.88	3%		3%
Combination Equipment Oper. Groundman	9.19	.88	3%		3%
Combination Driver - Groundman	8.68	.88	3%		3%
Groundman	8.02	.88	3%		3%

FOOTNOTE:
a. 7 paid holidays; New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving and Christmas Day

SUPERSEDEAS DECISION

STATE: Mississippi
DECISION NO.: MS75-1109
COUNTY: Warren
DATE: Date of Publication
Supersedes Decision No. MS75-1044 dated April 11, 1975 in 40 FR 16530.
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	Education and/or Appr. Tr.
Asbestos workers	$7.78	.30			
Boilermakers	8.60	.60	1.00		.02
Bricklayers; Stonemasons	6.92				.02
Carpenters; Soft floor layers	6.85				
Cement masons	6.00	.25	.10	a	
Electricians:					
Electricians	8.35		1% + .50		.04
Cable splicers	8.60		1% + .50		.04
Elevator constructors	7.83	.495	.32	4%+a & b	.02
Elevator constructors' helpers	5.68	.495	.32	4%+a & b	.02
Elevator constructors' helpers (probationary)	3.915				
Glaziers	5.90				
Ironworkers	7.15	.30	.35		.04
Laborers:					
Laborers	2.60				
Mortar mixers	2.70				
Lathers	7.65				.01
Millwrights	7.45				
Painters:					
Brush; Drywall tapers; Rollers	5.95	.15			
Spray	6.45	.15			
Structural steel	6.20	.15			
Piledrivermen	7.70				
Plasterers	7.00	.25	.30		.05
Plumbers; pipefitters	7.60			c	.05
Roofers	6.90		.15		
Sheet metal workers	7.75	.30	.40		
Truck drivers:					
1½ to 5 tons	4.25				
Over 5 tons	4.90				

MS75-1109 (Cont'd)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 6 paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. 2 paid holidays: D & F

MS75-1109 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	$7.75	.25	.25		
GROUP II	6.90	.25	.25		
GROUP III	6.55	.25	.25		
GROUP IV	6.10	.25	.25		
GROUP V	5.40	.25	.25		

GROUP I: Engineer, operating under air pressure.

GROUP II: Mechanic

GROUP III: Asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane, derrick, derrick car, derrick boat, dragline, dredge, elevating grader, excavator (power belt), fork lift (5 tons & over), hoists (2 drums in active use), locomotive engineer, marine engineer (chief), master pilot, mechanic, motor patrol and similar equipment, paver (7½ c. f. or larger), pile driver, recharger, scoop (skinner), scraper, shovel, trenching machine (over 18" bucket line width), turnapull (DW-10 and similar pull type scrapers), Traxcavator and similar endloaders, welder, welding machines and pumps (operating 2 to 6 machines), well driller, well point pumps.

GROUP IV: Asphalt spreader (bituminous distributor), asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, forklift (over 2 tons and less than 5 tons), heating plant, hoist (one drum), marine engineer's assistant, mixer payloader and similar endloaders, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machines (18" or smaller bucket line width), tugboat, well driller (1st helper), winch truck and tractor, small rubber tired with backhoe attachment.

GROUP V:
Air compressor, batch scale, deckhand, forklift (2 tons & under), form grader, locomotive hostler, mechanic helper, motorboat (in or outboard), oiler, pump, roughneck, scowman, tractor (with attachments), welding machine.

MS75-1109 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd)					

Booms, including jib:
25¢ per hour above regular rate - 100 feet to and including 200 feet.

50¢ per hour above regular rate - 201 feet to and including 300 feet.

75¢ per hour above regular rate - 301 feet and above.

Operators servicing other crafts shall draw rate of pay not less than journeyman rate of craft being serviced.

SUPERSEDEAS DECISION

STATE: Oregon COUNTIES: Statewide
DECISION NUMBER: OR75-5133 DATE: Date of Publication
Supersedes Decision No. OR75-5123 dated October 10, 1975, in 40 FR 48057
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

DECISION NO. OR75-5133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$ 9.96	.50	.80		.10
BOILERMAKERS	8.90	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons: Clackamas, Clatsop, Columbia, Gillian, Hood River, Multnomah, Morrow, Sherman, Tillamook, Wasco (north of the City of Maupin), Washington, N½ of Yamhill Counties	10.13	.55	.75		.08
Marion, Polk, S½ of Yamhill Cos. Baker, Union, Umatilla, Wallowa, N½ of Malheur Counties	8.25	.40	.40		
Benton, Crook, Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Wheeler, Wasco (including the City of Maupin and South thereof), and S½ of Malheur Counties	9.20	.40	.50		
CARPENTERS:	9.62	.50	.55		.08
Acoustical and Drywall Applicators; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders	9.29	.55	.65	.35	.03
Piledrivermen; Bridge, Dock and Wharf Builders	9.39	.55	.65	.35	.03
Floor Layers and Finishers; Stationary Power Saw Operators	9.44	.55	.65	.35	.03
Boom Men	9.49	.55	.65	.35	.03
Millwrights and Machine Erectors	9.54	.55	.65	.35	.03
CEMENT MASONS:					
Cement Masons	8.47	.55	.60	.60	.10
Composition Worker; Power Machinery Operator	8.62	.55	.60	.60	.10
ELECTRICIANS:					
Malheur County					
Electricians	$ 8.48	.40	1%+.25		1%
Cable Splicers	9.328	.60	1%+.25		1%
Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, Wheeler Counties					
Electricians	9.85	.35	1%+.40		.02
Lead Cable Splicers	10.835	.35	1%+.40		.02
Coos, Curry, Lincoln, Those portions of Douglas and Lane Counties lying west of a line North and South from the NE corner of Coos County to the SE corner of Lincoln County					
Electricians	9.30	.45	1%		.04
Cable Splicers	10.23	.45	1%		.04
Benton, Crook, Deschutes, Jefferson, Lake (except coast portion), Linn, Marion, Polk, S½ of Yamhill Counties					
Electricians	9.85	.45	1%		.04
Lead Cable Splicers	10.64	.45	1%		.04
Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington, N½ of Yamhill Counties					
Electricians	10.10	.45	1%+.40		.02
Lead Cable Splicers	10.85	.45	1%+.40		.02
Harney, Jackson, Josephine, Klamath, Lake, that portion of Douglas lying east of a line running north and south from the NE corner of Coos to the SE corner of Lincoln Counties					
Electricians	9.50	.45	1%		.04
Cable Splicers	10.15	.45	1%		.04
ELEVATOR CONSTRUCTORS	7.97	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

DECISION NO. OR75-5133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GLAZIERS:					
Wallowa County	$ 7.28	.31	.25	.28+b	
Remaining Counties	7.20	.26	.30	6.5%	.01
IRONWORKERS:					
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	8.90	.58	.90	.25	.05
LATHERS:					
Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, Tillamook, Wasco, Washington, Yamhill Counties	9.05	.50	.80		.01
MARBLE SETTERS:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Morrow, Sherman, Tillamook, Wasco (North of the City of Maupin), Washington, N½ of Yamhill Counties	10.13	.55	.75		.08
Baker, Union, Umatilla, Wallowa, N½ of Malheur Counties	9.20	.40	.50		
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, S½ of Malheur, Wasco (including the City of Maupin and South thereof), Wheeler Counties	8.05	.45	.60		
MASON TENDERS:					
(Including tenders to plasterers, bricklayers, tile setters, marble setters and terrazzo worker; Topping for cement finishers and mortar mixer)	8.27	.65	.80		.10
PAINTERS:					
Malheur County					
Brush; Paperhangers; Drywall Tapers	7.26	.25	.10		.02
Steel, Sign	7.36	.25	.10		.02
Application of toxic materials; Sandblasting; Spray	7.73	.25	.10		.02

DECISION NO. OR75-5133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS: (Cont'd)					
Umatilla (Township of Pendleton Only)					
Brush; Glazier; Sign Painter Spray; Sandblasting; Swing Stage; Taping and Paperhanging	$5.50				
Remaining Counties	5.75				
Brush	8.59	.35	.45	.30	.03
Spray, High Towers, Ground to 100'	8.84	.35	.45	.30	.03
High Work over 100'; High Towers, ground to 300'	9.09	.35	.45	.30	.03
High Towers, ground to over 300'	9.59	.35	.45	.30	.03
Drywall Finisher	7.81	.40	.40	.50	.06
PLASTERERS:					
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Malheur (South half), Wasco (including the City of Maupin and south thereof) and Wheeler Counties	8.50	.50	.60		.01
Remaining Counties	8.50	.50	.60		.01
PLUMBERS; Steamfitters:					
Baker; Harney (except NW portion); Malheur Counties	8.79	.37	.40		.10
Grant (except SW corner); Morrow, Umatilla, Wallowa, Union Counties	10.11	.33	.85	.62	.10
N½ of Benton, Lincoln and Linn Counties; S½ of Tillamook and Yamhill Counties; Marion and Polk Counties	9.23	.56	1.18	1.00	.10
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasxo, Wheeler, Washington, N½ of Yamhill Counties, N½ of Tillamook County	9.97	.70	1.55		.08
Coos, Curry, West Coast portion of Douglas, Lane (City of Florence)	10.39	.66	1.02		.04

DECISION NO. OR75-5133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PLUMBERS; Steamfitters (Cont'd)					
Lane (except City of Florence); Douglas (except coast portion), Crook, Deschutes, NW portion of Harney, Northern portions of Klamath and Lake Counties, S½ of Lincoln, Linn, Benton and Jefferson Counties, SW corner of Grant County	$ 8.65	.41	.75		.05
Remainder of Klamath and Lake Cos.	8.96	.50	.75	1.00	.075
Jackson and Josephine Counties	7.05	.44	.84	.85	.02
ROOFERS:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington, and Wheeler Counties					
Roofers	9.05	.45	.75		
Handling of irritating material (coal, tar or epoxy) in unconfined area	9.55	.45	.75		
Handling of irritating material (coal, tar or epoxy) in a confined area	9.80	.45	.75		
Wallowa County	7.45				
Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, and Lane Counties					
Roofers	9.05	.45	.10		
Spray and/or application of irritating materials in a confined area	10.05	.45	.10		
Marion, Yamhill, Polk, Lincoln, Benton and Linn Counties	7.40	.22	.15	.25	
Malheur County	7.40	.33	.20	.30	
SHEET METAL WORKERS:					
Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler and Yamhill Counties	8.71	.55	.51	1.00	.04

DECISION NO. OR75-5133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
SHEET METAL WORKERS: (Cont'd)					
Malheur County	$8.36	.32	.30		.04
Baker, Umatilla, Union, Wallowa Counties	9.95	.50	.78		
Coos, Curry, Douglas, Klamath, Lake, and Lane Counties	8.67	.37	.35		.005
Jackson and Josephine Counties	8.68	.42	.40	.30	.005
SOFT FLOOR LAYERS:					
All Counties except Malheur	8.335	.45	.85	c	.06
SPRINKLER FITTERS	10.55	.50	.80		.08
TERRAZZO WORKERS:					
Baker, Umatilla, Union, Wallowa, and N½ of Malheur Counties	8.53	.40	.50		
TILE SETTERS:					
Clatsop, Clackamas, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Wasco (north of the City of Maupin), Washington, Tillamook and N½ of Yamhill County	8.04	.35	.35	.25	
Baker, Umatilla, Union, Wallowa Counties and N½ of Malheur Cos.	8.53	.40	.50		
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath Lake, Lane, Lincoln, Linn, Wheeler, Wasco (including the City of Maupin and south thereof) and S½ of Malheur Cos.	8.05	.45	.60		

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer credits 4% basic hourly rate of employee with 5 years' service; 2% basic hourly rate for 6 months to 5 years' service to Vacation Plan. Six Paid Holidays: A through F.
b. Two weeks' Vacation with pay after 1 year of employment. Also Seven (7) Paid Holidays: A through F plus Washington's Birthday.
c. 4% of all gross wages to be placed to the credit of employees with less than one year's service. 6% of all gross wages to be placed to the credit of employees with more than one year of service.

DECISION NO. OR75-5133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Cable Splicers; Leadman Pole Sprayer	$11.12	.35	1%	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	10.04	.35	1%	.10	1/2%
Tree Trimmer	9.06	.35	1%	.10	1/2%
Line Equipment Man	8.65	.35	1%	.10	1/2%
Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer Man	7.96	.35	1%	.10	1/2%
Groundman; Tree Trimmer Helper	7.12	.35	1%	.10	1/2%
DREDGING:					
Leverman:					
Dipper	10.06	.75	1.00	.50	.05
Hydraulic	9.40	.75	1.00	.50	.05
Assistant Engineer (including watch engineer, welder, mechanic, and machinist); Mate	9.04	.75	1.00	.50	.05
Tenderman (boatman, attending dredge plant); Fireman	8.80	.75	1.00	.50	.05
Assistant Mate (deckhand); Oiler	8.54	.75	1.00	.50	.05

DECISION NO. OR75-5133

LABORERS

	ZONE A	ZONE B	ZONE C	ZONE D	ZONE E	ZONE F
Group 1	$7.37	$7.77	$8.12	$8.37	$8.62	$8.87
Group 2	7.72	8.12	8.47	8.72	8.97	9.22
Group 3	8.02	8.42	8.77	9.02	9.27	9.52
Group 4	8.27	8.67	9.02	9.27	9.52	9.77

FRINGE BENEFITS:
Health and Welfare $.65
Pension .80
Vacation $.50
Apprenticeship Training .10

TRUCK DRIVERS

	ZONE A	ZONE B	ZONE C	ZONE D	ZONE E	ZONE F
Group 1	$8.48	$8.88	$9.23	$9.48	$9.73	$9.98
Group 2	8.53	8.93	9.28	9.53	9.78	10.03
Group 3	8.58	8.98	9.33	9.58	9.83	10.08
Group 4	8.63	9.03	9.38	9.63	9.88	10.13
Group 5	8.68	9.08	9.43	9.68	9.93	10.18
Group 6	8.78	9.18	9.53	9.78	10.03	10.28
Group 7	8.88	9.28	9.63	9.88	10.13	10.38
Group 8	8.98	9.38	9.73	9.98	10.23	10.48
Group 9	9.08	9.48	9.83	10.08	10.33	10.58
Group 10	9.25	9.65	10.00	10.25	10.50	10.75
Group 11	9.35	9.75	10.10	10.35	10.60	10.85
Group 12	9.45	9.85	10.20	10.45	10.70	10.95
Group 13	9.55	9.95	10.30	10.55	10.80	11.05
Group 14	9.65	10.05	10.40	10.65	10.90	11.15

FRINGE BENEFITS:
Health and Welfare $.53
Pension .65
Vacation $.45
Apprenticeship Training .05

DECISION NUMBER OR75-5133

POWER EQUIPMENT OPERATORS

WAGE RATES:

WAGE RATES: Group No.	Zone A	Zone B	Zone C	Zone D	Zone E	Zone F
1	$8.30	$8.70	$9.05	$9.30	$9.55	$9.80
2	8.44	8.84	9.19	9.44	9.69	9.94
3	8.54	8.94	9.29	9.54	9.79	10.04
4	8.70	9.10	9.45	9.70	9.95	10.20
5	8.72	9.12	9.47	9.72	9.97	10.22
6	8.80	9.20	9.55	9.80	10.05	10.30
7	8.86	9.26	9.61	9.86	10.11	10.36
8	8.96	9.36	9.71	9.96	10.21	10.46
9	9.02	9.42	9.77	10.02	10.27	10.52
10	9.08	9.48	9.82	10.08	10.33	10.58
11	9.10	9.50	9.85	10.10	10.35	10.60
12	9.16	9.56	9.91	10.16	10.41	10.66
13	9.24	9.64	9.99	10.24	10.49	10.74
14	9.40	9.80	10.15	10.40	10.65	10.90
15	9.56	9.96	10.31	10.56	10.81	11.06
16	9.74	10.14	10.49	10.74	10.99	11.24
17	9.88	10.28	10.63	10.88	11.13	11.38
18	10.06	10.46	10.81	11.06	11.31	11.56
19	10.20	10.60	10.95	11.20	11.45	11.70

FRINGE BENEFITS:

Health and Welfare	$ .75
Pension	1.00
Vacation	.50
Apprenticeship Tr.	.05

DECISION NO. OR75-5133

LABORERS
TRUCK DRIVERS
POWER EQUIPMENT OPERATORS

ZONE WAGE SCALE

Portland Only

Zone A - All jobs or projects located within 25 miles of the City Hall of Portland

Zone C - More than 25 miles but less than 35 miles from City Hall

Zone D - More than 35 miles but less than 45 miles from City Hall

Zone E - More than 45 miles but less than 75 miles from City Hall

Zone F - More than 75 miles from City Hall

Eugene and Salem Only

Zone A - All jobs or projects located within 20 miles of the respective City Hall

Zone B - More than 20 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

DECISION NO. OR75-5133

LABORERS
TRUCK DRIVERS
POWER EQUIPMENT OPERATORS

ZONE WAGE SCALE (Cont'd)

CITIES:

Astoria	Hood River	Newport	Tillamook
Baker	Klamath Falls	Ontario	
Bend	La Grande	Pendleton	
Brookings	Lakeview	Port Orford	
Burns	Madras	Reedsport	
Coos Bay	Medford	Roseburg	
Grants Pass	McMinnville	The Dalles	

Zone A - All jobs or projects located within 10 miles of the respective City Hall

Zone B - More than 10 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

Albany and Corvallis Only

Zone A - All jobs or projects located within 5 miles of the respective City Hall

Zone B - More than 5 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

DECISION NO. OR75-5133

LABORERS

Group 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Brooners; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-house Man or Dry Shack Man; Choke Setter; Clean Up Laborers; Concrete Laborers; Culvert, hand labor; Curing, concrete; Demolition, Wrecking and Moving Laborers; Driller Helpers; Dumpers, Road Oiling Crew; Dumpman (for grading crew); Elevator Feeders; Fence Builder (including Guard Rail, Median Rail, Reference Post, Guide Post, Right-of-way Marker); Fine Graders; Flagmen, traffic; Form Strippers (not Swinging Stages); Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Helper; Pittsburgh Chipper Operator or similar types; Railroad Track Laborers; Ribbon Setters (including Steel Forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipmen; Slopers Sprayman; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bull Gang (above ground); Weight Man - Crusher (aggregate when used)

Group 2: Applicator (including Pot Tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary Power Spreader and similar types; Clean-up Nozzleman - Greencutter (concrete, rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and Wrecking Charred Materials; Grade Checker; Gunite Nozzleman Tender; Gunite or Sand Blasting Pot Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vibrators (less than 4" in diameter), Post Hole Digger, air gas or electric, Vibrating Screed, Tampers, Ribbon Setter, head; Rip Rap Man (head), hand placed; Sand Blasting (wet); Stake Setter; Tunnel - Muckers, Brakemen, Concrete Crew, Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators, Air Tracks, Cat Drills, Wagon Drills, Rubber-mounted Drills and other similar types; Concrete Saw Operator; Gunite Nozzleman; High Scalers, Strippers and Drillers (covers work in Swinging Stages, Chairs or Belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Laser Beam (pipe laying) - Applicable when employee assigned to move, set up, align laser beam; Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzleman; Sand Blasting (dry); Sewer Pipe Layers; Sewer Timberman; Track Liners, Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks; Tugger Operator; Tunnel - Chuck Tenders, Nippers and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (tunnel) - Tunnel Miners; Tunnel Powderman

DECISION NO. OR75-5133

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail Equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler-driver, 25 ton capacity or over; Crane Fireman, (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Drill Helper; Auger Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Helper; Welder's Helper; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power); under 1,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber-Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy Phones, etc.; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Loll Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, setting Slip Forms, etc., in tunnels; Slip Forms Pumps, power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type), self-propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

DECISION NO. OR75-5133

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2-1/2 cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Bellcrete; Pumpcrete Operator (any type); Cement Pump, Fuller-Kenyon and similar; Concrete Pump; Grouting Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without front end attachments 2-1/2 cu. yds and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring operator or grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-Electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loaders, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type Lifting Device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yd.; Loader, front end and overhead, 2-1/2 cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H. D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, Maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC12 and similar); Cable plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H. D. Mechanic-Welder, when dispatched and/or when required to do both; Rubber-tired dozers and Pushers (Michigan, Cat, Hough type); Driller-Percussion, Diamond, Core, Cable, Rotary and similar type

DECISION NO. OR75-5133

POWER EQUIPMENT OPERATORS (Cont'd)

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel, Dragline, Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

Group 12: Blade Operator; Batch Plant and/or wet mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine, Single Scraper, with push-pull attachments, self-loading, Paddle Wheel, Auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engines; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25-ton and over; Crane, over 25 ton and including 40 tons; Piledriver Operator; Floating Clamshell, etc. under 3 cu. yds.; Floating Crane (derrick barge), less than 30 ton; Elevating Grader, operated by tractor operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc., 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, Auger type, Finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Auto-grader or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (derrick barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, Multi-engine; Shovel etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley over 80 ton and including 150 ton; Floating Crane (derrick barge) 80 ton but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator.

Group 19: Helicopter, when used in erecting work; Floating Crane 250 ton and over; Remote Controlled Earth Moving Equipment; Underwater Equipment, remote or otherwise

DECISION NO. OR75-5133

TRUCK DRIVERS

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under; Lift Jitneys, Fork Lifts (all sizes used in loading, unloading and transporting material on job site); Loader and/or Leverman on concrete dry batch plant (manually operated); Pilot Car; Solo Flat Bed and misc. body trucks, 0-10 tons; Truck Helper; Truck Mechanic Helper; Warehouseman (warehouse parts, tool man and parts chaser, checkers and receivers); Water Wagons (rated capacity), up to 1600 gallons; Transit Mix and wet or dry mix trucks 5 cu. yds. and under.

Group 2: "A" Frame of Hydra-lift Truck w/load bearing surfaces; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi-trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Tireman (full-time basis); Water Wagons (rated capacity), 1600 to 3000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Low Bed Equipment, Flat Bed Semi-truck and Trailer or doubles transporting Equipment or wet or dry materials; Lumber Carrier Driver - Straddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity), 3000 to 5000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and wet or dry trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi trucks and Trains or combinations thereof, over 10 cu. yds. and including 20 cu. yds.; Transit Mix and wet or dry mix trucks, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic-Welder-Body Repairman; Water Wagons (rated capacity) 5000 to 7000 gallons

Group 7: Dump Trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and wet or dry mix trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity), over 7000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and wet or dry mix trucks over 11 cu. yds. and including 13 cu. yds.; Water Wagons (rated capacity), over 10,000 gallons to 15,000 gallons

DECISION NO. OR75-9133

TRUCK DRIVERS (Cont'd)

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combination thereof: over 40 cu. yds. and including 50 cu. yds.; Transit Mix and wet or dry mix trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including semi Trucks and Trains or combinations thereof: over 90 cu. yds, and including 100 cu. yds.

Drivers and Helpers (handling sacked cement add $.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

STATE: Tennessee
DECISION NUMBER: TN75-1108
Supersedes Decision No.: TN75-1070 dated July 18, 1975, in 40 FR-30435
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy, Water, Sewer and Utility Construction.

COUNTY: Shelby
DATE: Date of Publication

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.20	.35	.50		.05
Boilermakers	7.50	.40	.90		.02
Bricklayers, Stonemasons	9.85	.43	.20		.05
Carpenters, Piledrivermen, Soft floor layers	8.80	.30	.20		.04
Cement masons:					
Cement masons	8.65	.30	.45		.10
Cement masons machine operator	8.90	.30	.45		.10
Electricians:					
Electricians, Linemen	8.68	.35	7%+.40		.5%
Cable splicers	8.78	.35	7%+.40		.5%
Elevator constructors	8.29	.445	.29	3%+a+b	.02
Elevator constructors' helpers	70%JR	.445	.29	3%+a+b	.02
Elevator constructors' helpers (Prob.)	50%JR				
Glaziers	8.50	.35	.20		
Ironworkers	9.15	.35	.60		.125
Lathers	8.80	.25			.01
Leadburners	7.80	.30		a	.01
Marble setters, Terrazzo workers, tile setters	7.75	.45	.20		.05
Millwrights	9.075	.36			.06
Painters:					
Brush	8.10	.30	.30		.05
Sandblasting, spray steel	8.35	.30	.30		.05
Plasterers	9.00				.01
Plumbers	9.57	.30	.15		
Roofers:					
Composition	8.25		.25		.03
Slate, tile, asbestos & precast tile	8.50		.25		.03
Sheet metal workers	8.40	.50	.25	.55	.02
Sprinkler fitters	9.35	.50	.80		.08
Steamfitters, air conditioning mechanics and pipefitters	10.47	.30	.30		
Truck drivers:					
Up to 5 tons	6.10		d		
5 tons & over incl. special equipment	6.15		d		
Welders, riggers, & riveters receive rate prescribed for craft performing operation to which welding is incidental.					

TN75-1108 (Cont'd)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. Employer contribution of $4.00 per week.

TN75-1106 - (Cont'd)

BUILDING CONSTRUCTION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	5.75	.20	.20		.05
GROUP B	5.85	.20	.20		.05
GROUP C	5.90	.20	.20		.05
GROUP D	6.10	.20	.20		.05
GROUP E	6.30	.20	.20		.05

GROUP A: General and common laborers, concrete laborers, track laborer walkers, cement finisher helper, plumbor helpers, carpenter tenders, asphalt rakers-tampers, form strippers, roofing helpers.

GROUP B: Well driller helpers, storm and sanitary pipe layers, mat weavers, motor buggie operators.

GROUP C: Chain saw operator, jackhammer, vibrator and electric hammers and all air tool and pneumatic tools.

GROUP D: Deep hole men

GROUP E: Powdermen, toolroom attendant, torchman on demolition and salvage, sand hog (free air).

TN75-1106 - (Cont'd)

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS A	8.65	.30	.35		
CLASS B	8.22	.30	.35		
CLASS C	7.52	.30	.35		
CLASS D	7.12	.30	.35		

CLASS A: Shovels; Backhoes; Draglines; Cranes; Derricks; Gantrys; Gradall; Winch with boom; Motor patrol; Trenching machine (18" & over); Pile driver; Tug boat operator; Mechanics (heavy); Central mixing plant; Locomotive engineer; Straddle carriers; Core drills (over 3"); Tower cranes; Hydro cranes; Austin Western (and similar type cranes); Drilling of piling; Tugger; Earth freezing equipment; 3 drum hoist; Side boom; Dredge operator (engineer); Hopto; Pump crete; Mucking machines; Cableway; Central compressor plant; Derrick boat; Concrete pump; Welders (men from the craft); Helicopter operator; Well point systems; Sweeper; Bulldozers; Pans; Scrapers; Traxcavators; Fork lift; Front end loader

CLASS B: Trenching machines (18" and smaller); Tandem rollers; Pavers; Mobile mixers (rubber tired, mobile, mixed on job); Back filler; Blade graders; Dinkey operator over 10 tons; Elevating graders; Winches (operated from trucks or tractors, without booms and powered by other than the truck); Distributors; Bituminous surfaces, 1 and 2 drum hoist; Grout pumps; Motor boat; Switchman; Brakeman; Earth compactors (motorized-Buffalo-Springfield type)

CLASS C: Locomotive fireman (on boilers 100 h.p. and over); Operator; Air compressor (stationary); Earth drills; Scale operators; Tractors (40 h.p. and less); Motor crane driver and oiler; Pumps (larger than 4"); Dinkey operators (10 tons and less); Oilers on Gantrys; Greasers

CLASS D: Air compressor operators; Mechanic helper; Locomotive fireman; Welding machine operators; Deck hand; Elevator operators

TNTS-1100 - (Cont'd)

HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	
Bricklayers	$6.00					
Carpenters or leadsman	5.00					
Cement masons	5.00					
Electricians	5.77					
Ironworkers, reinforcing	4.75					
Ironworkers, structural	5.35					
Laborers:						
Laborers, unskilled; Flagman	3.05					
Chain saw; Concrete rubber; Mortar mixer; Pipelayer	3.25					
Air tool operator; Firemen	3.30					
Concrete edger	3.40					
Concrete saw operator; Fence erector; Guard rail erector	3.50					
Asphalt raker	3.60					
Sign erector	3.70					
Form setter; Steel road	3.95					
Powderman	4.25					
Nozzleman or gunman (gunite)	5.00					
Pointer or sand blaster	5.00					
Power equipment operators:						
Pump operator; Welder helper	3.20					
Ditch paver; Mechanic helper	3.30					
Curb machine	3.40					
Motor crane driver; Mulcher or seeder; Scale operator	3.50					
Tractor, farm	3.55					
Concrete mixer, less than 1 yd.; Earth drill	3.60					
Track drill	3.75					
Dozer or loader - stock pile only	3.85					
Oiler; Roller, other than finish	3.90					
Distributor (bituminous)	4.05					
Tractor, crawler, utility	4.10					
Spreader (self-propelled)	4.20					
Asphalt paver; Central mixing (asphalt or concrete); Concrete finishing machine; Mechanic, Class II; Motor patrol (rough); Roller (high type); Soil cement machine	4.35					
Tractor - boom & hoist; Trenching machine	4.50					
Bulldozer or push dozer; Scraper	4.75					
Backhoe; Concrete paver; Crane; End loader; Mechanic, Class I; Motor patrol finish; Piledriver; Shovel	5.00					
Truck drivers:						
2 & 3 axles	3.40					
4 & 5 axles or more or heavy duty off-the-road trucks	4.00					
Welders receive rate prescribed for craft performing operations to which is incidental.						

TNTS-1100 - (Cont'd)

WATER, SEWER AND UTILITIES

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$3.50					
Carpenters	3.50					
Cement masons	3.00					
Laborers	2.10					
Truck drivers:						
Up to 3 tons	2.32					
Over 3 tons	2.50					
Power Equipment Operators:						
Air compressors	2.37					
Backhoe	3.50					
Blade grader	3.50					
Bulldozer	3.45					
Cranes, derricks & draglines	3.85					
Front end loader	3.50					
Mechanics	3.42					
Motor grader	3.50					
Scrapers	3.34					
Shovels	3.50					
Tractors	2.37					
Trenching machines	3.30					

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